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**EXHIBIT 1**  
**TO**  
**PROVISIONS FOR MULTI-MODAL OBLIGATIONS**

**AUCTION RATE MODE PROVISIONS**

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## **AUCTION RATE MODE PROVISIONS**

### **ARTICLE I**

#### **DEFINITIONS**

**Part 1.1 Definitions.** In addition to the words and terms elsewhere defined, or whose defined meanings are incorporated by reference, in the Provisions for Multi-Modal Obligations (hereinafter referred to as “Appendix A”) to which this Exhibit 1 is appended, the following words and terms as used in this Exhibit 1 and elsewhere in Appendix A have the following meanings with respect to Bonds of a subseries in an Auction Rate Mode unless the context or use indicates another or different meaning or intent:

“Agent Member” means a member of or participant in, the Securities Depository who shall act on behalf of a Bidder.

“All Hold Rate” means, as of any Auction Date, 45% of the Index in effect on such Auction Date.

“Auction” means each periodic implementation of the Auction Procedures.

“Auction Agent” means the auctioneer appointed in accordance with Part 3.1 or 3.2 of this Exhibit 1.

“Auction Agreement” means an agreement between the City, the Auction Agent and the Paying Agent/Registrar pursuant to which the Auction Agent agrees to follow the procedures specified in this Exhibit 1, with respect to the Bonds of a subseries in an Auction Rate Mode; as such agreement may from time to time be amended or supplemented.

“Auction Date” means during any period in which the Auction Procedures are not suspended in accordance with the provisions hereof:

(a) if the Bonds of a subseries are in a daily Auction Period, each Business Day;

(b) if the Bonds of a subseries are in a Special Auction Period, the last Business Day of the Special Auction Period; and

(c) if the Bonds of a subseries are in any other Auction Period, the Business Day next preceding each Interest Payment Date for such Bonds of

a subseries (whether or not an Auction is conducted on such date); provided, however, that the last Auction Date with respect to the Bonds of any subseries in an Auction Period other than a daily Auction Period or Special Auction Period is the earlier of (i) the Business Day next preceding the Interest Payment Date next preceding the Mode Change Date for such Bonds of a subseries, and (ii) the Business Day next preceding the Interest Payment Date next preceding the Maturity Date for such Bonds; and provided, further, that if the Bonds of a subseries are in a daily Auction Period, the last Auction Date is the earlier of (x) the Business Day next preceding the Mode Change Date for such Bonds, (y) the Business Day next preceding the Maturity Date for the Bonds of a subseries.

The last Business Day of a Special Auction Period is the Auction Date for the Auction Period which begins on the next succeeding Business Day, if any, On the Business Day preceding the conversion from a daily Auction Period to another Auction Period, there shall be two Auctions, one for the last daily Auction Period and one for the first Auction Period following the conversion.

“Auction Multiple” means, as of any Auction Date, the Percentage of Index (in effect on such Auction Date) determined as set forth below, based on the Prevailing Rating and the tax status of the Bonds of such subseries in effect at the close of business on the Business Day immediately preceding such Auction Date:

<b>Prevailing Rating</b>	<b>Percentage of Index</b>
AAA/AAA/Aaa	175%
AA/AA/Aa	200%
A/A/A	250%
BBB/BBB/Baa	275%
Below BBB/BBB/Baa	400%

“Auction Period” means:

- (a) a Special Auction Period;
- (b) with respect to Bonds of a subseries in a daily Auction Period, a period beginning on each Business Day and extending to but not including the next succeeding Business Day;
- (c) with respect to Bonds of a subseries in a seven day Auction Period and with Auctions generally conducted on (i) Fridays, a period of

generally seven days beginning on a Monday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Sunday) and ending on the Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally seven days beginning on a Tuesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Monday) and ending on the Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally seven days beginning on a Wednesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally seven days beginning on a Thursday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Wednesday) and ending on the Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally seven days beginning on a Friday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(d) with respect to Bonds of a subseries in a 28-day Auction Period and with Auctions generally conducted on (i) Fridays, a period of generally 28 days beginning on a Monday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Sunday) and ending on the fourth Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally 28 days beginning on a Tuesday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Monday) and ending on the fourth Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally 28 days beginning on a Wednesday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the fourth Tuesday thereafter (unless such

Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally 28 days beginning on a Thursday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Wednesday) and ending on the fourth Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally 28 days beginning on a Friday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the fourth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(e) with respect to Bonds of a subseries in a 35-day Auction Period and with Auctions generally conducted on (i) Fridays, a period of generally 35 days beginning on a Monday (or the last day of the prior Auction Period if the prior Auction Period does not end on Sunday) and ending on the fifth Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally 35 days beginning on a Tuesday (or the last day of the prior Auction Period if the prior Auction Period does not end on Monday) and ending on the fifth Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally 35 days beginning on a Wednesday (or the last day of the prior Auction Period if the prior Auction Period does not end on Tuesday) and ending on the fifth Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally 35 days beginning on a Thursday (or the last day of the prior Auction Period if the prior Auction Period does not end on Wednesday) and ending on the fifth Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally 35 days beginning on a Friday (or the last day of the prior Auction Period if the prior Auction Period does not end on Thursday) and ending on the fifth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(f) with respect to Bonds of a subseries in a three-month Auction Period, a period of generally three months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the first day of the month that is the third calendar month following the beginning date of such Auction Period (unless such first day of the month is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day); and

(g) with respect to Bonds of a subseries in a six-month Auction Period, a period of generally six months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the next succeeding May 14 or November 14;

provided, however, that

(h) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Fridays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion;

(i) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Mondays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and

shall end on the next succeeding Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion;

\(j) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Tuesdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion;

(k) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Wednesdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and



shall end on the next succeeding Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion; and

(l) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Thursdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion

provided further, however, that any Auction Period that is greater than 35 days may be extended as provided in paragraph (d) of Part 2.3 of this Exhibit 1.

“Auction Period Rate” means with respect to Bonds of each subseries, the rate of interest to be borne by the Bonds of such subseries during each Auction

Period determined in accordance with Part 2.3 of this Exhibit 1; provided, however, in no event may the Auction Rate exceed the Maximum Rate.

“Auction Procedures” means the procedures for conducting Auctions for Bonds of a subseries in an Auction Rate Mode set forth in this Exhibit 1.

“Auction Rate” (a) as used in the Bonds of a subseries, means (i) the per annum interest rate approved and certified by the City to the Paying Agent/Registrar on or prior to the Mode Change Date for such series for the initial Auction Period therefor, and (ii) the Auction Period Rate for the Bonds of a subseries for each subsequent Auction Period, and (b) as used in the Ordinance, means for each series of Bonds for each Auction Period, (i) if Sufficient Clearing Bids exist, the Winning Bid Rate, provided, however, if all of such Bonds of a subseries are the subject of Submitted Hold Orders, the All Hold Rate with respect to such Bonds and (ii) if Sufficient Clearing Bids do not exist, the Maximum Auction Rate with respect to such Bonds.

“Available Bonds” means for each series of Bonds on each Auction Date, the aggregate principal amount of such Bonds that are not the subject of Submitted Hold Orders.

“Bid” has the meaning specified in subpart (a) of Part 2.1 of this Exhibit 1.

“Bidder” means each Existing Owner and Potential Owner who places an Order.

“Broker-Dealer” means any entity that is permitted by law to perform the function required of a Broker-Dealer described in this Exhibit 1 that is a member of, or a direct participant in, the Securities Depository, that has been selected by the City, and that is a party to a Broker-Dealer Agreement with the Auction Agent.

“Broker-Dealer Agreement” means an agreement among the Auction Agent, the City and a Broker-Dealer pursuant to which such Broker-Dealer agrees to follow the procedures described in this Exhibit 1; as such agreement may from time to time be amended or supplemented.

“Default Rate” means, in the case of Bonds of a subseries in any Auction Period other than a daily Auction Period, a per annum rate equal to four hundred percent (400%) of the Index determined on the Auction Date next preceding the first day of such Auction Period or in the case of Bonds of a subseries in a daily Auction Period, a per annum rate equal to four hundred percent (400%) of the

Index determined on the Auction Date which was the first day of such Auction Period, provided, however, the Default Rate shall not exceed the Maximum Rate.

“Existing Owner” means for purposes of conducting auctions by the Auction Agent the Broker-Dealers acting on behalf of each owner of any beneficial interest in any Bonds of a subseries in the records of the Auction Agent.

“Hold Order” has the meaning specified in subpart (a) of Part 2.1 of this Exhibit 1.

“Index” shall have the meaning specified in Part 2.6 of this Exhibit 1.

“Interest Payment Date” means:

(a) when used with respect to any Auction Period (including the initial Auction Period commencing on and including the Closing Date or the Mode Change Date, as the case may be, and expiring on and including the initial Auction Date specified in the Officers’ Pricing Certificate or determined and certified by the City to the Paying Agent/Registrar on or prior to the Mode Change Date, other than a daily Auction Period or a Special Auction Period, the Business Day immediately following such Auction Period; and

(b) when used with respect to a daily Auction Period, the first Business Day of the month immediately succeeding such Auction Period; and

(c) when used with respect to a Special Auction Period of (i) more than seven but fewer than 92 days, the Business Day immediately following such Special Auction Period, or (ii) 92 or more days, (A) in the case of Bonds of a subseries with Auctions generally conducted on Fridays, each thirteenth Monday after the first day of such Special Auction Period or the next Business Day if such Monday is not a Business Day and on the Business Day immediately following such Special Auction Period, (B) in the case of Bonds of a subseries with Auctions generally conducted on Mondays, each thirteenth Tuesday after the first day of such Special Auction Period or the next Business Day if such Tuesday is not a Business Day and on the Business Day immediately following such Special Auction Period, (C) in the case of Bonds of a subseries with Auctions generally conducted on Tuesdays, each thirteenth Wednesday after the first day of such Special Auction Period or the next Business Day if such Wednesday is not a Business Day and on the Business Day immediately following such Special

Auction Period, (D) in the case of Bonds of a subseries with Auctions conducted on Wednesdays, each thirteenth Thursday after the first day of such Special Auction Period or the next Business Day if such Thursday is not a Business Day and on the Business Day immediately following such Special Auction Period and (E) in the case of Bonds of a subseries with Auctions generally conducted on Thursdays, each thirteenth Friday after the first day of such Special Auction Period or the next Business Day if such Friday is not a Business Day and on the Business Day immediately following such Special Auction Period.

“Maximum Auction Rate” means as of any Auction Date, the product of the Index multiplied by the Auction Multiple; provided, however, that in no event shall the Maximum Auction Rate exceed the Maximum Rate, anything herein to the contrary notwithstanding.

“Order” means a Hold Order, Bid or Sell Order.

“Potential Owner” means any Person, including any Existing Owner, who may be interested in acquiring a beneficial interest in the Bonds of a subseries in addition to the Bonds currently owned by such Person, if any.

“Prevailing Rating” means (a) AAA/AAA/Aaa, if the Bonds of a subseries shall have a rating of AAA or better by Standard & Poor’s and Fitch and a rating of Aaa or better by Moody’s, (b) if not AAA/AAA/Aaa, AA/AA/Aa if the Bonds of a subseries shall have a rating of AA- or better by Standard & Poor’s and Fitch and a rating of Aa3 or better by Moody’s, (c) if not AAA/AAA/Aaa or AA/AA/Aa, A/A/A if the Bonds of a subseries shall have a rating of A- or better by Standard & Poor’s and Fitch and a rating of A3 or better by Moody’s, (d) if not AAA/AAA/Aaa, AA/AA/Aa or A/A/A, BBB/BBB/Baa if the Bonds of a subseries shall have a rating of BBB- or better by Standard & Poor’s and Fitch and a rating of Baa3 or better by Moody’s, and (e) if not AAA/AAA/Aaa, AA/AA/Aa, A/A/A or BBB/BBB/Baa, then below BBB/BBB/Baa, whether or not the Bonds of a subseries are rated by any Rating Agency. For purposes of this definition, Standard & Poor’s’s and Fitch’s rating categories of “AAA,” “AA-,” “A-” and “BBB-” and Moody’s rating categories of “Aaa,” “Aa3,” “A3” and “Baa3” shall be deemed to refer to and include the respective rating categories correlative thereto in the event that any such Rating Agencies shall have changed or modified their generic rating categories or if any successor thereto appointed in accordance with the definitions thereof shall use different rating categories. If the Bonds of subseries are not rated by a Rating Agency, the requirement of a rating by such Rating Agency shall be disregarded. If the ratings for the Bonds of a subseries are split between the

foregoing categories, the lowest rating shall determine the Prevailing Rating. If there is no rating, then the Auction Period Rate shall be the Maximum Auction Rate.

“Principal Office” means, with respect to the Auction Agent, the office thereof designated in the Auction Agreement as the office of the Auction Agent to which notices, requests or communications should be sent.

“Securities Depository” means The Depository Trust Company and its successors and assigns or any other securities depository selected by the City which agrees to follow the procedures required to be followed by such securities depository in connection with the Bonds of a subseries.

“Sell Order” has the meaning specified in subpart (a) of Part 2.1 of this Exhibit I.

“Special Auction Period” means any period of more than seven but less than 1,092 days which is not another Auction Period and which begins on an Interest Payment Date and ends (i) in the case of Bonds of a subseries with Auctions generally conducted on Fridays, on a Sunday unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (ii) in the case of Bonds of a subseries with Auctions generally conducted on Mondays, on a Monday unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (iii) in the case of Bonds of a subseries with Auctions generally conducted on Tuesdays, on a Tuesday unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (iv) in the case of Bonds of a subseries with Auctions generally conducted on Wednesdays, on a Wednesday unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, and (v) in the case of Bonds of a subseries with Auctions generally conducted on Thursdays, on a Thursday unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day.

“Submission Deadline” means 1:00 p.m. on each Auction Date for Bonds of a subseries not in a daily Auction Period and 11:00 a.m. on each Auction Date for Bonds of a subseries in a daily Auction Period, or such other time on such date as shall be specified from time to time by the Auction Agent pursuant to the Auction Agreement as the time by which Broker-Dealers are required to submit Orders to the Auction Agent.

“Submitted Bid” has the meaning specified in subpart (b) of Part 2.3 of this Exhibit 1.

“Submitted Hold Order” has the meaning specified in subpart (b) of Part 2.3 of this Exhibit 1.

“Submitted Order” has the meaning specified in subpart (b) of Part 2.3 of this Exhibit 1.

“Submitted Sell Order” has the meaning specified in subpart (b) of Part 2.3 of this Exhibit 1.

“Sufficient Clearing Bids” means with respect to Bonds of a subseries, an Auction for which the aggregate principal amount of Bonds of such subseries that are the subject of Submitted Bids by Potential Owners specifying one or more rates not higher than the Maximum Auction Rate is not less than the aggregate principal amount of Bonds of such subseries that are the subject of Submitted Sell Orders and of Submitted Bids by Existing Owners specifying rates higher than the Maximum Auction Rate.

“Winning Bid Rate” means with respect to Bonds of a subseries the lowest rate specified in any Submitted Bid for such subseries which if selected by the Auction Agent as the Auction Period Rate would cause the aggregate principal amount of Bonds of such subseries that are the subject of Submitted Bids specifying a rate not greater than such rate to be not less than the aggregate principal amount of Available Bonds of such series.

## **Part 1.2     Rules of Construction.**

(a) This Exhibit 1 constitutes an integral part of the Appendix A and, except to the extent provided in the next sentence, has the same force and effect as if set forth in Appendix A. In the event of any conflict between this Exhibit 1 and Appendix A, Appendix A shall control.

(b) References in this Exhibit 1 to Articles or Parts are to such Article or Part of this Exhibit 1.

## ARTICLE II

### AUCTION PROCEDURES

#### **Part 2.1     Orders by Existing Owners and Potential Owners.**

(a) Prior to the Submission Deadline on each Auction Date:

(1) each Existing Owner may submit to a Broker-Dealer, in writing or by such other method as shall be reasonably acceptable to such Broker-Dealer, information as to:

(A) the principal amount of Bonds of a subseries, if any, held by such Existing Owner which such Existing Owner irrevocably commits to continue to hold for the next succeeding Auction Period without regard to the rate determined by the Auction Procedures for such Auction Period,

(B) the principal amount of Bonds of a subseries, if any, held by such Existing Owner which such Existing Owner irrevocably commits to continue to hold for the next succeeding Auction Period if the rate determined by the Auction Procedures for such Auction Period shall not be less than the rate per annum then specified by such Existing Owner (and which such Existing Owner irrevocably offers to sell on the next succeeding Interest Payment Date (or the same day in the case of a daily Auction Period) if the rate determined by the Auction Procedures for the next succeeding Auction Period shall be less than the rate per annum then specified by such Existing Owner), and/or

(C) the principal amount of Bonds of a subseries, if any, held by such Existing Owner which such Existing Owner irrevocably offers to sell on the next succeeding Interest Payment Date (or on the same day in the case of a daily Auction Period) without regard to the rate determined by the Auction Procedures for the next succeeding Auction Period; and

(2) for the purpose of implementing the Auctions and thereby to achieve the lowest possible interest rate on the Bonds of a subseries, the Broker- Dealers shall contact Potential Owners,

including Persons that are Existing Owners, to determine the principal amount of Bonds of a subseries, if any, which each such Potential Owner irrevocably offers to purchase if the rate determined by the Auction Procedures for the next succeeding Auction Period is not less than the rate per annum then specified by such Potential Owner.

For the purposes hereof, an Order containing the information referred to in clause (1)(A) above is herein referred to as a "Hold Order", an Order containing the information referred to in clause (1)(B) or (2) above is herein referred to as a "Bid", and an Order containing the information referred to in clause (1)(C) above is herein referred to as a "Sell Order."

(b) (1) A Bid by an Existing Owner shall constitute an irrevocable offer to sell:

(A) the principal amount of Bonds of a subseries specified in such Bid if the rate determined by the Auction Procedures on such Auction Date shall be less than the rate specified therein;

(B) or such principal amount or a lesser principal amount of Bonds of a subseries to be determined as described in subpart (a)(v) of Part 2.4 hereof if the rate determined by the Auction Procedures on such Auction Date shall be equal to such specified rate; or

(C) a lesser principal amount of Bonds of a subseries to be determined as described in subpart (b)(iv) of Part 2.4 hereof if such specified rate shall be higher than the Maximum Auction Rate and Sufficient Clearing Bids do not exist.

(2) A Sell Order by an Existing Owner shall constitute an irrevocable offer to sell:

(A) the principal amount of Bonds of a subseries specified in such Sell Order; or

(B) such principal amount or a lesser principal amount of Bonds of a subseries as described in subpart (b)(iv) of Part 2.4 hereof if Sufficient Clearing Bids do not exist.



(3) A Bid by a Potential Owner shall constitute an irrevocable offer to purchase:

(A) the principal amount of Bonds of a subseries specified in such Bid if the rate determined by the Auction Procedures on such Auction Date shall be higher than the rate specified therein; or

(B) such principal amount or a lesser principal amount of Bonds of a subseries as described in subpart (a)(vi) of Part 2.4 hereof if the rate determined by the Auction Procedures on such Auction Date shall be equal to such specified rate.

(c) Anything herein to the contrary notwithstanding:

(1) for purposes of any Auction, any Order which specifies Bonds of a subseries to be held, purchased or sold in a principal amount which is not equal to the Authorized Denomination for Bonds of such subseries or an integral multiple thereof shall be rounded down to the nearest amount that is equal to the Authorized Denomination for Bonds of such subseries, and the Auction Agent shall conduct the Auction Procedures as if such Order had been submitted in such lower amount;

(2) for purposes of any Auction other than during a daily Auction Period, any portion of an Order of an Existing Owner which relates to a Bond of a subseries which has been called for redemption on or prior to the Interest Payment Date next succeeding such Auction shall be invalid with respect to such portion and the Auction Agent shall conduct the Auction Procedures as if such portion of such Order had not been submitted;

(3) for purposes of any Auction other than during a daily Auction Period, no portion of a Bond of a subseries which has been called for redemption on or prior to the Interest Payment Date next succeeding such Auction shall be included in the calculation of Available Bonds for such Auction; and

(4) the Auction Procedures shall be suspended with respect to the Bonds of a subseries during the period commencing on the date of the Auction Agent's receipt of notice from the Paying Agent/Registrar of the occurrence of a default of the City in the

payment of principal, Sinking Fund Installment, interest or premium on any Bond of such subseries in the Auction Rate Mode after the same shall have become due, whether at maturity, upon call for redemption or on an Interest Payment Date (provided however that for purposes of this provision only payment by the Credit Facility Provider shall be deemed to cure such default and no such suspension of the Auction Procedures shall occur) but shall resume two Business Days after the date on which the Auction Agent receives notice from the Paying Agent/Registrar that such default has been waived or cured, with the next Auction to occur on the next regularly scheduled Auction Date occurring thereafter.

**Part 2.2      Submission of Orders by Broker-Dealers to Auction Agent.**

(a) Each Broker-Dealer shall submit to the Auction Agent in writing or by such other method as shall be reasonably acceptable to the Auction Agent, including such electronic communication acceptable to the parties, prior to the Submission Deadline on each Auction Date, all Orders obtained by such Broker-Dealer and, if requested, specifying with respect to each Order:

- (1) the name of the Bidder placing such Order;
- (2) the aggregate principal amount of Bonds of each subseries, if any, that are the subject of such Order;
- (3) to the extent that such Bidder is an Existing Owner:
  - (A) the principal amount of Bonds of each subseries, if any, subject to any Hold Order placed by such Existing Owner;
  - (B) the principal amount of Bonds of each subseries, if any, subject to any Bid placed by such Existing Owner and the rate specified in such Bid; and
  - (C) the principal amount of Bonds of each subseries, if any, subject to any Sell Order placed by such Existing Owner;
- (4) to the extent such Bidder is a Potential Owner, the rate specified in such Bid.

(b) If any rate specified in any Bid contains more than three figures to the right of the decimal point, the Auction Agent shall round such rate up to the next highest one thousandth of one percent (0.001%).

(c) If an Order or Orders covering all of the Bonds of a particular subseries held by an Existing Owner is not submitted to the Auction Agent prior to the Submission Deadline, the Auction Agent shall deem a Hold Order to have been submitted on behalf of such Existing Owner covering the principal amount of Bonds of such subseries held by such Existing Owner and not subject to Orders submitted to the Auction Agent; provided, however, that if there is a conversion from one Auction Period to another Auction Period or an amendment or modification to the Ordinance in accordance with Part 2.7(b) of this Exhibit 1 and Orders have not been submitted to the Auction Agent prior to the Submission Deadline covering the aggregate principal amount of Bonds of the subseries to be converted held by such Existing Owner, the Auction Agent shall deem a Sell Order to have been submitted on behalf of such Existing Owner covering the principal amount of Bonds of such subseries to be converted held by such Existing Owner not subject to Orders submitted to the Auction Agent.

(d) If one or more Orders covering in the aggregate more than the principal amount of Outstanding Bonds of a subseries held by any Existing Owner are submitted to the Auction Agent, such Orders shall be considered valid as follows:

(1) all Hold Orders shall be considered Hold Orders, but only up to and including in the aggregate the principal amount of Bonds of such subseries held by such Existing Owner;

(2) (A) any Bid of an Existing Owner shall be considered valid as a Bid of an Existing Owner up to and including the excess of the principal amount of Bonds of such subseries held by such Existing Owner over the principal amount of the Bonds of such subseries subject to Hold Orders referred to in paragraph (1) above;

(B) subject to clause (2)(A) above, all Bids of an Existing Owner with the same rate shall be aggregated and considered a single Bid of an Existing Owner up to and including the excess of the principal amount of Bonds of such subseries held by such Existing Owner over the principal amount of Bonds of such subseries held by such Existing

Owner subject to Hold Orders referred to in paragraph (1) above;

(C) subject to clause (2)(A) above, if more than one Bid with different rates is submitted on behalf of such Existing Owner, such Bids shall be considered Bids of an Existing Owner in the ascending order of their respective rates up to the amount of the excess of the principal amount of Bonds of such subseries held by such Existing Owner over the principal amount of Bonds of such subseries held by such Existing Owner subject to Hold Orders referred to in paragraph (1) above;

(D) and the principal amount, if any, of such Bonds of such subseries subject to Bids not considered to be Bids of an Existing Owner under this paragraph (2) shall be treated as the subject of a Bid by a Potential Owner;

(3) all Sell Orders shall be considered Sell Orders, but only up to and including a principal amount of Bonds of such subseries equal to the excess of the principal amount of Bonds of such subseries held by such Existing Owner over the sum of the principal amount of the Bonds considered to be subject to Hold Orders pursuant to paragraph (1) above and the principal amount of Bonds of such subseries considered to be subject to Bids of such Existing Owner pursuant to paragraph (2) above.

(e) If more than one Bid is submitted on behalf of any Potential Owner, each Bid submitted with the same rate shall be aggregated and considered a single Bid and each Bid submitted with a different rate shall be considered a separate Bid with the rate and the principal amount of Bonds of such subseries specified therein.

(f) Neither the City, the Paying Agent/Registrar nor the Auction Agent shall be responsible for the failure of any Broker-Dealer to submit an Order to the Auction Agent on behalf of any Existing Owner or Potential Owner.

### **Part 2.3     Determination of Auction Period Rate.**

(a) Not later than 9:30 a.m. on each Auction Date for Bonds of each subseries in an Auction Rate Mode, the Auction Agent shall advise the

Broker-Dealers and the Paying Agent/Registrar by telephone or other electronic communication acceptable to the parties of the All Hold Rate, the Maximum Auction Rate and the Index for the Bonds of such subseries.

(b) Promptly after the Submission Deadline on each Auction Date for Bonds of each subseries in an Auction Rate Mode, the Auction Agent shall assemble all Orders submitted or deemed submitted to it by the Broker-Dealers (each such Order as submitted or deemed submitted by a Broker-Dealer being hereinafter referred to as a "Submitted Hold Order," a "Submitted Bid" or a "Submitted Sell Order," as the case may be, and collectively as a "Submitted Order") and shall determine (i) the Available Bonds, (ii) whether there are Sufficient Clearing Bids, and (iii) the Auction Rate.

(c) Promptly after the Auction Agent has made the determinations pursuant to subpart (b) above, the Auction Agent shall advise the Paying Agent/Registrar by telephone (promptly confirmed in writing), telex or facsimile transmission or other electronic communication acceptable to the parties of the Auction Rate for the next succeeding Auction Period and the Paying Agent/Registrar shall promptly notify the Securities Depository of such Auction Rate.

(d) In the event the Auction Agent fails to calculate or, for any reason, fails to timely provide the Auction Rate for any Auction Period, (i) if the preceding Auction Period was a period of 35 days or less, the new Auction Period shall be the same as the preceding Auction Period and the Auction Period Rate for the new Auction Period shall be the same as the Auction Period Rate for the preceding Auction Period, and (ii) if the preceding Auction Period was a period of greater than 35 days, the preceding Auction Period shall be extended to the seventh day following the day that would have been the last day of such Auction Period had it not been extended (or if such seventh day is not followed by a Business Day then to the next succeeding day which is followed by a Business Day) and the Auction Period Rate in effect for the preceding Auction Period will continue in effect for the Auction Period as so extended. In the event an Auction Period is extended as set forth in clause (ii) of the preceding sentence, an Auction shall be held on the last Business Day of the Auction Period as so extended to take effect for an Auction Period beginning on the Business Day immediately following the last day of the Auction Period as extended which Auction Period will end on the date it would otherwise have ended on had the prior Auction Period not been extended.

(e) In the event that the Auction Procedures are suspended pursuant to paragraph (4) of subpart (c) of Part 2.1 of this Exhibit 1 with respect to any Bond of subseries, the Auction Period Rate for the next succeeding Auction Period shall be the Default Rate.

(f) In the event that all of the conditions for a change in the Mode applicable to the Bonds of a subseries from an Auction Mode to any other Mode pursuant to Part 2.8 of Appendix A have not been met, or in the event of a failure to change the length of the current Auction Period due to the lack of Sufficient Clearing Bids at the Auction on the Auction Date for the first new Auction Period, the Auction Period Rate for the next Auction Period shall be the Maximum Auction Rate and the Auction Period shall be a seven-day Auction Period.

(g) If the Bonds of a subseries are not rated or if the Bonds of a subseries are no longer maintained in book-entry form by the Securities Depository, then the Auction Period Rate shall be the Maximum Auction Rate.

(h) If the Auction Period Rate for the Bonds of a subseries is equal to the Maximum Auction Rate or the Default Rate for the longer of (i) two consecutive Auction Dates or (ii) ninety (90) days, the Credit Facility Provider for the Bonds of such subseries shall have the right to direct the City to change the Mode applicable to the Bonds of such subseries to the Fixed Rate Mode and upon such direction the City shall change such Mode to a Fixed Rate Mode in accordance with Part 2.8 of Appendix A.

**Part 2.4     Allocation of Bonds of a subseries.**

(a) In the event of Sufficient Clearing Bids for Bonds of a subseries, subject to the further provisions of subparts (c) and (d) below, Submitted Orders for such subseries shall be accepted or rejected as follows in the following order of priority:

(1) the Submitted Hold Order of each Existing Owner shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Hold Order;

(2) the Submitted Sell Order of each Existing Owner shall be accepted and the Submitted Bid of each Existing Owner specifying any rate that is higher than the Winning Bid Rate shall be rejected,

thus requiring each such Existing Owner to sell the Bonds of a subseries that are the subject of such Submitted Sell Order or Submitted Bid;

(3) the Submitted Bid of each Existing Owner specifying any rate that is lower than the Winning Bid Rate shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Bid;

(4) the Submitted Bid of each Potential Owner specifying any rate that is lower than the Winning Bid Rate shall be accepted, thus requiring each such Potential Owner to purchase the Bonds of a subseries that are the subject of such Submitted Bid;

(5) the Submitted Bid of each Existing Owner specifying a rate that is equal to the Winning Bid Rate shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Bid, but only up to and including the principal amount of Bonds of a subseries obtained by multiplying (A) the aggregate principal amount of Outstanding Bonds of a subseries which are not the subject of Submitted Hold Orders described in paragraph (1) above or of Submitted Bids described in paragraphs (3) or (4) above by (B) a fraction the numerator of which shall be the principal amount of Outstanding Bonds of a subseries held by such Existing Owner subject to such Submitted Bid and the denominator of which shall be the aggregate principal amount of Outstanding Bonds of a subseries subject to such Submitted Bids made by all such Existing Owners that specified a rate equal to the Winning Bid Rate, and the remainder, if any, of such Submitted Bid shall be rejected, thus requiring each such Existing Owner to sell any excess amount of Bonds of a subseries;

(6) the Submitted Bid of each Potential Owner specifying a rate that is equal to the Winning Bid Rate shall be accepted, thus requiring each such Potential Owner to purchase the Bonds of a subseries that are the subject of such Submitted Bid, but only in an amount equal to the principal amount of Bonds of a subseries obtained by multiplying (A) the aggregate principal amount of Outstanding Bonds of a subseries which are not the subject of Submitted Hold Orders described in paragraph (1) above or of Submitted Bids described in paragraphs (iii), (iv) or (v) above by (B) a fraction the

numerator of which shall be the principal amount of Outstanding Bonds of a subseries subject to such Submitted Bid and the denominator of which shall be the sum of the aggregate principal amount of Outstanding Bonds of a subseries subject to such Submitted Bids made by all such Potential Owners that specified a rate equal to the Winning Bid Rate, and the remainder of such Submitted Bid shall be rejected; and

(7) the Submitted Bid of each Potential Owner specifying any rate that is higher than the Winning Bid Rate shall be rejected.

(b) In the event there are not Sufficient Clearing Bids for Bonds of a subseries, subject to the further provisions of subparts (c) and (d) below, Submitted Orders, for each Bonds of a subseries shall be accepted or rejected as follows in the following order of priority:

(1) the Submitted Hold Order of each Existing Owner shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Hold Order;

(2) the Submitted Bid of each Existing Owner specifying any rate that is not higher than the Maximum Auction Rate with respect to Bonds of a subseries, shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Bid;

(3) the Submitted Bid of each Potential Owner specifying any rate that is not higher than the Maximum Auction Rate with respect to Bonds of a subseries, shall be accepted, thus requiring each such Potential Owner to purchase the Bonds of a subseries that are the subject of such Submitted Bid;

(4) the Submitted Sell Orders of each Existing Owner shall be accepted as Submitted Sell Orders and the Submitted Bids of each Existing Owner specifying any rate that is higher than the Maximum Auction Rate with respect to Bonds of a subseries, shall be deemed to be and shall be accepted as Submitted Sell Orders, in both cases only up to and including the principal amount of Bonds of a subseries obtained by multiplying (A) the aggregate principal amount of Bonds of a subseries subject to Submitted Bids described in paragraph (3) of



this subpart (b) by (B) a fraction the numerator of which shall be the principal amount of Outstanding Bonds of a subseries held by such Existing Owner subject to such Submitted Sell Order or such Submitted Bid deemed to be a Submitted Sell Order and the denominator of which shall be the principal amount of Outstanding Bonds of a subseries subject to all such Submitted Sell Orders and such Submitted Bids deemed to be Submitted Sell Orders, and the remainder of each such Submitted Sell Order or Submitted Bid shall be deemed to be and shall be accepted as a Hold Order and each such Existing Owner shall be required to continue to hold such excess amount of Bonds of a subseries; and

(5) the Submitted Bid of each Potential Owner specifying any rate that is higher than the Maximum Auction Rate with respect to the Bonds of a subseries shall be rejected.

(c) If, as a result of the procedures described in subpart (a) or (b) above, any Existing Owner or Potential Owner would be required to purchase or sell an aggregate principal amount of Bonds of a subseries which is not an integral multiple of the Authorized Denomination for Bonds of such subseries on any Auction Date, the Auction Agent shall by lot, in such manner as it shall determine in its sole discretion, round up or down the principal amount of Bonds of a subseries to be purchased or sold by any Existing Owner or Potential Owner on such Auction Date so that the aggregate principal amount of Bonds of a subseries purchased or sold by each Existing Owner or Potential Owner on such Auction Date shall be an integral multiple of the Authorized Denomination for Bonds of such subseries, even if such allocation results in one or more of such Existing Owners or Potential Owners not purchasing or selling any Bonds of a subseries on such Auction Date.

(d) If, as a result of the procedures described in subpart (a) above, any Potential Owner would be required to purchase a principal amount of Bonds of a subseries that is less than the Authorized Denomination for Bonds of such subseries on any Auction Date, the Auction Agent shall by lot, in such manner as it shall determine in its sole discretion, allocate such Bonds for purchase among Potential Owners so that the principal amount of Bonds of a subseries purchased on such Auction Date by any Potential Owner shall be an integral multiple of the Authorized Denomination for Bonds of such subseries, even if such allocation results in one or more of such Potential Owners not purchasing such Bonds on such Auction Date.

**Part 2.5     Notice of Auction Period Rate.**

(a) On each Auction Date, the Auction Agent shall notify by telephone or other telecommunication device or other electronic communication acceptable to the parties or in writing each Broker-Dealer that participated in the Auction held on such Auction Date of the following with respect to Bonds of each subseries for which an Auction was held on such Auction Date:

(1) the Auction Period Rate determined on such Auction Date for the succeeding Auction Period;

(2) whether Sufficient Clearing Bids existed for the determination of the Winning Bid Rate;

(3) if such Broker-Dealer submitted a Bid or a Sell Order on behalf of an Existing Owner, whether such Bid or Sell Order was accepted or rejected and the principal amount of Bonds of a subseries, if any, to be sold by such Existing Owner;

(4) if such Broker-Dealer submitted a Bid on behalf of a Potential Owner, whether such Bid was accepted or rejected and the principal amount of Bonds of a subseries, if any, to be purchased by such Potential Owner;

(5) if the aggregate principal amount of the Bonds of a subseries to be sold by all Existing Owners on whose behalf such Broker-Dealer submitted Bids or Sell Orders is different from the aggregate principal amount of Bonds of a subseries to be purchased by all Potential Owners on whose behalf such Broker-Dealer submitted a Bid, the name or names of one or more Broker-Dealers (and the Agent Member, if any, of each such other Broker Dealer) and the principal amount of Bonds of a subseries to be (A) purchased from one or more Existing Owners on whose behalf such other Broker-Dealers submitted Bids or Sell Orders or (B) sold to one or more Potential Owners on whose behalf such Broker-Dealer submitted Bids; and

(6) the immediately succeeding Auction Date.

(b) On each Auction Date, with respect to Bonds of each subseries for which an Auction was held on such Auction Date, each Broker-Dealer

that submitted an Order on behalf of any Existing Owner or Potential Owner shall: (i) advise each Existing Owner and Potential Owner on whose behalf such Broker-Dealer submitted an Order as to (A) the Auction Period Rate determined on such Auction Date, (B) whether any Bid or Sell Order submitted on behalf of each such Owner was accepted or rejected and (C) the immediately succeeding Auction Date; (ii) instruct each Potential Owner on whose behalf such Broker-Dealer submitted a Bid that was accepted, in whole or in part, to instruct such Existing Owner's Agent Member to pay to such Broker-Dealer (or its Agent Member) through the Securities Depository the amount necessary to purchase the principal amount of such Bonds of a subseries to be purchased pursuant to such Bid (including, with respect to such Bonds of a subseries in a daily Auction Period, accrued interest if the purchase date is not an Interest Payment Date for such Bond) against receipt of such Bonds of a subseries; and (iii) instruct each Existing Owner on whose behalf such Broker-Dealer submitted a Sell Order that was accepted or a Bid that was rejected, in whole or in part, to instruct such Existing Owner's Agent Member to deliver to such Broker-Dealer (or its Agent Member) through the Securities Depository the principal amount of such Bonds of a subseries to be sold pursuant to such Bid or Sell Order against payment therefor.

## **Part 2.6     Index.**

(a) The Index on any Auction Date with respect to Bonds of a subseries in any Auction Period of 35 days or less shall be the One Month LIBOR Rate on such date. The Index with respect to Bonds of subseries in any Auction Period greater than 35 days shall be the rate on United States Treasury Securities having a maturity which most closely approximates the length of the Auction Period, as last published in The Bond Buyer. If either rate is unavailable, the Index for the Bonds of a subseries shall be an index or rate agreed to by all Broker-Dealers and consented to by the City.

"One Month LIBOR Rate" means, as of any date of determination, the offered rate for deposits in U.S. dollars for a one-month period which appears on the Telerate Page 3750 at approximately 11:00 a.m., London time, on such date, or if such date is not a date on which dealings in U.S. dollars are transacted in the London interbank market, then on the next preceding day on which such dealings were transacted in such market.

(b) If for any reason on any Auction Date the Index shall not be determined as hereinabove provided in this Part, the Index shall be the Index for the Auction Period ending on such Auction Date.

(c) The determination of the Index as provided herein shall be conclusive and binding upon the City, the Paying Agent/Registrar, the Broker-Dealers, the Auction Agent and the Owners of the Bonds of a subseries.

**Part 2.7     Miscellaneous Provisions Regarding Auctions.**

(a) In this Exhibit 1, each reference to the purchase, sale or holding of “Bonds” shall refer to beneficial interests in such Bonds, unless the context clearly requires otherwise.

(b) During an Auction Rate Mode, with respect to the Bonds of a subseries, the provisions of the Ordinance, including Appendix A, this Exhibit 1 and the definitions contained in this Exhibit 1, including, without limitation, the definitions of Maximum Rate, Maximum Auction Rate, All Hold Rate, Index, Default Rate, Auction Multiple and the Auction Period Rate, may be modified or amended, with the consent of the Credit Facility Provider for the Bonds of such subseries, pursuant to the Ordinance by obtaining, when required by the Ordinance, the consent of the owners of all Outstanding Bonds of such subseries as follows; provided, however, that no such modification or amendment that adversely affect the rights, duties or obligations of the Auction Agent shall be made without the consent of the Auction Agent. If on the first Auction Date occurring at least 20 days after the date on which the Paying Agent/Registrar mailed notice of such proposed modification or amendment to the registered owners of the Outstanding Bonds of a subseries as required by the Ordinance, (i) the Auction Period Rate which is determined on such date is the Winning Bid Rate and (ii) there is delivered to the City and the Paying Agent/Registrar a Favorable Opinion of Bond Counsel, the proposed modification or amendment shall be deemed to have been consented to by the owners of all affected Outstanding Bonds of such subseries.

(c) If the Securities Depository notifies the City that it is unwilling or unable to continue as Owner of the Bonds of a subseries or if at any time the Securities Depository shall no longer be registered or in good standing under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation and a successor to the Securities Depository is not

appointed by the City within 90 days after the City receives notice or becomes aware of such condition, as the case may be, the City shall execute and the Paying Agent/Registrar shall authenticate and deliver certificates representing the Bonds of such subseries. Such Bonds shall be authorized in such names and authorized denominations as the Securities Depository, pursuant to instructions from the Agent Members or otherwise, shall instruct the City and the Paying Agent/Registrar.

(d) During an Auction Rate Mode, so long as the ownership of the Bonds of a subseries is maintained in book-entry form by the Securities Depository, an Existing Owner or a beneficial owner may sell, transfer or otherwise dispose of a Bond only pursuant to a Bid or Sell Order in accordance with the Auction Procedures or to or through a Broker-Dealer, provided that (i) in the case of all transfers other than pursuant to Auctions such Existing Owner or its Broker-Dealer or its Agent Member advises the Auction Agent of such transfer and (ii) a sale, transfer or other disposition of Bonds of a subseries from a customer of a Broker-Dealer who is listed on the records of that Broker-Dealer as the holder of such Bonds to that Broker-Dealer or another customer of that Broker-Dealer shall not be deemed to be a sale, transfer or other disposition for purposes of this paragraph if such Broker-Dealer remains the Existing Owner of Bonds of a subseries so sold, transferred or disposed of immediately after such sale, transfer or disposition.

## **Part 2.8      Changes in Auction Period or Auction Date.**

### **(a)      Changes in Auction Period.**

(1) During any Auction Rate Mode, the City may from time to time on any Interest Payment Date, change the length of the Auction Period with respect to all of the Bonds of any subseries among daily, seven-days, 28-days, 35-days, three months, six months and a Special Auction Period in order to accommodate economic and financial factors that may affect or be relevant to the length of the Auction Period and the interest rate borne by Bonds of such subseries. The City shall initiate the change in the length of the Auction Period by giving written notice to the Credit facility Provider, the Auction Agent, the Broker-Dealers and the Securities Depository that the Auction Period shall change if the conditions described herein are satisfied and the proposed effective date of the change, at least 10 Business Days prior to the Auction Date for such Auction Period;

provided, however, that in the case of a change from a Special Auction Period of 92 or more days, the date of such change shall be the Interest Payment Date immediately following the last day of such Special Auction Period.

(2) Any such changed Auction Period shall be for a period of one day, seven-days, 28-days, 35-days, three months, six months or a Special Auction Period and shall be for all of the Bonds of a subseries in an Auction Rate Mode.

(3) The change in the length of the Auction Period for Bonds of any subseries shall not be allowed unless Sufficient Clearing Bids existed at both the Auction before the date on which the notice of the proposed change was given as provided in this subpart (a) and the Auction immediately preceding the proposed change.

(4) The change in length of the Auction Period for Bonds of any subseries shall take effect only if (A) the Paying Agent/Registrar and the Auction Agent receive, by 11:00 a.m. on the Business Day before the Auction Date for the first such Auction Period, a certificate from the City consenting to the change in the length of the Auction Period specified in such certificate and (B) Sufficient Clearing Bids exist at the Auction on the Auction Date for such first Auction Period. For purposes of the Auction for such first Auction Period only, each Existing Owner shall be deemed to have submitted Sell Orders with respect to all of its Bonds of a subseries for which there is to be a change in the length of the Auction Period except to the extent such Existing Owner submits an Order with respect to such Bonds. If the condition referred to in (A) above is not met, the Auction Rate for the next Auction Period shall be determined pursuant to the Auction Procedures and the Auction Period shall be the Auction Period determined without reference to the proposed change. If the condition referred to in (A) is met but the condition referred to in (B) above is not met, the Auction Rate for the next Auction Period shall be the Maximum Auction Rate and the Auction Period shall be a seven-day Auction Period.

(5) On the conversion date for Bonds of a subseries from one Auction Period to another, any Bonds of such subseries which are not the subject of a specific Hold Order or Bid shall be deemed to be subject to a Sell Order.

(b) Changes in Auction Date. During any Auction Rate Mode, the Auction Agent, with the written consent of the City, may specify an earlier Auction Date for Bonds of any subseries (but in no event more than five Business Days earlier) than the Auction Date that would otherwise be determined in accordance with the definition of "Auction Date" in order to conform with then current market practice with respect to similar securities or to accommodate economic and financial factors that may affect or be relevant to the day of the week constituting an Auction Date and the interest rate borne on such Bonds. The Auction Agent shall provide notice of its determination to specify an earlier Auction Date for an Auction Period by means of a written notice delivered at least 45 days prior to the proposed changed Auction Date to the Paying Agent/Registrar, the City, the Credit Facility Provider, the Broker-Dealers and the Securities Depository.

## **ARTICLE III**

### **AUCTION AGENT**

#### **Part 3.1     Auction Agent.**

(a) The Auction Agent shall be appointed by the Paying Agent/Registrar at the written direction of the City, to perform the functions specified herein. The Auction Agent shall designate its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by an Auction Agreement delivered to the City, the Paying Agent/Registrar and each Broker-Dealer which shall set forth such procedural and other matters relating to the implementation of the Auction Procedures as shall be satisfactory to the City and the Paying Agent/Registrar.

(b) Subject to any applicable governmental restrictions, the Auction Agent may be or become the owner of or trade in Bonds with the same rights as if such entity were not the Auction Agent.

#### **Part 3.2     Qualifications of Auction Agent; Resignation; Removal.**

The Auction Agent shall be (a) a bank or trust company organized under the laws of the United States or any state or territory thereof having a combined capital stock, surplus and undivided profits of at least \$30,000,000, or (b) a member of National Association of Securities Dealers having a capitalization of at least \$30,000,000 and, in either case, authorized by law to perform all the duties imposed upon it by the Ordinance and a member of or a participant in, the

Securities Depository. The Auction Agent may at any time resign and be discharged of the duties and obligations created by the Ordinance by giving at least ninety (90) days notice to the City, the Credit Facility Provider, each Broker-Dealer and the Paying Agent/Registrar. The Auction Agent may be removed at any time by the City by written notice, delivered to the Auction Agent, the City, the Credit Facility Provider, each Broker-Dealer and the Paying Agent/Registrar. Upon any such resignation or removal, the Paying Agent/Registrar shall appoint a successor Auction Agent meeting the requirements of this Part. In the event of the resignation or removal of the Auction Agent, the Auction Agent shall pay over, assign and deliver any moneys and Bonds held by it in such capacity to its successor. The Auction Agent shall continue to perform its duties hereunder until its successor has been appointed by the Paying Agent/Registrar. In the event that the Auction Agent has not been compensated for its services, the Auction Agent may resign by giving thirty (30) days notice to the City and the Paying Agent/Registrar even if a successor Auction Agent has not been appointed.



## **APPENDIX A**

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### **PROVISIONS FOR MULTI-MODAL OBLIGATIONS FOR THE BONDS**

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# **PROVISIONS FOR MULTI-MODAL OBLIGATIONS FOR THE BONDS**

## **ARTICLE I**

### **DEFINITIONS**

**Part 1.1 Definitions.** Capitalized terms used but not otherwise defined in this Appendix A shall have the meanings set forth in the Ordinance to which this Appendix A is appended. Unless otherwise specified, references to Parts and articles herein are to the Parts and articles in this Appendix A and not the Ordinance. For all purposes herein and (except as the context may otherwise require) in the Ordinance, the following terms have the following meanings:

“Alternate Credit Facility” means a Credit Facility that is issued in substitution for a then-existing Credit Facility in accordance with, and pursuant to, Part 5.1 hereof, as the same may be amended or supplemented from time to time.

“Alternate Liquidity Facility” means a Liquidity Facility that is issued in substitution for a then-existing Liquidity Facility in accordance with, and pursuant to, Part 5.1 hereof, as the same may be amended or supplemented from time to time.

“Alternate Rate” means, on any Rate Determination Date, the SIFMA Index or if the SIFMA Index is no longer published, the Kenny Index, or if neither the SIFMA Index nor the Kenny Index are published, an index or a rate selected or determined by the Paying Agent/Registrar and consented to by the City and the Credit Facility Provider.

“Auction Agent” has the meaning set forth in Exhibit 1 hereto.

“Auction Agreement” has the meaning set forth in Exhibit 1 hereto.

“Auction Date” has the meaning set forth in Exhibit 1 hereto.

“Auction Period” has the meaning set forth in Exhibit 1 hereto.

“Auction Period Rate” has the meaning set forth in Exhibit 1 hereto.

“Auction Procedures” has the meaning set forth in Exhibit 1 hereto.

“Auction Rate Mode” means the mode during which the duration of the Auction Period and the interest rate is determined in accordance with Part 2.7 hereof and Exhibit 1 hereto.

“Authorized Denominations” means with respect to Bonds of a subseries (i) in an Auction Rate Mode, \$25,000 and any integral multiple thereof, (ii) in a Commercial Paper Mode, Daily Mode or Weekly Mode, \$100,000 and any integral multiple of \$5,000 in excess thereof and (iii) in a Term Rate Mode or Fixed Rate Mode, \$5,000 and any integral multiple thereof, provided, however, that if as a result of the change in the Mode of the Bonds of a subseries from a Term Rate Mode to a Commercial Paper Mode, Daily Mode or Weekly Mode, it is not possible to deliver all the Bonds of a subseries required or permitted to be Outstanding in a denomination permitted above, Bonds of a subseries may be delivered, to the extent necessary, in different denominations.

“Available Amount” means the amount available under the Credit Facility or Liquidity Facility, as applicable, to pay the principal of and interest on the Bonds or the Purchase Price of the Bonds, as applicable.

“Broker-Dealer” has the meaning set forth in Exhibit 1 hereto.

“Broker-Dealer Agreement” has the meaning set forth in Exhibit 1 hereto.

“Business Day” shall mean any day other than (a) a Saturday or Sunday, (b) a day on which banks located in the cities in which the designated office of any of the Tender Agent, the Remarketing Agent, the Paying Agent/Registrar, the Credit Provider or the Liquidity Provider is located are required or authorized by law or executive order to close, (c) a day on which the New York Stock Exchange is closed, or (d) a day on which the payment system of the Federal Reserve System is not operational.

“Closing Date” when used with respect to the Bonds of a subseries, means the date on which such Bonds are first issued, sold and delivered.

“Commercial Paper Mode” means the mode during which the duration of the Interest Periods and the interest rates are determined under Part 2.2 hereof.

“Commercial Paper Rate Bond” means any Bond of a subseries while in a Commercial Paper Mode.

“Credit Facility” shall mean a letter of credit, insurance policy, surety bond, line of credit or other instrument then in effect which secures or guarantees the

payment of principal of and interest on the Bonds. The initial Credit Facility for the Bonds is the Series 2008 Liquidity Agreement.

“Credit Facility Provider” shall mean any bank, insurance company, pension fund or other financial institution which provides a Credit Facility or Alternate Credit Facility for the Bonds. The initial Credit Facility Provider shall be Dexia Crédit Local, acting through its New York branch.

“Current Mode” has the meaning specified in Part 2.8(b) hereof.

“Daily Mode” means the mode during which Bonds of a subseries bear interest at a Daily Rate.

“Daily Rate” means an interest rate determined pursuant to Part 2.3 hereof.

“Delayed Remarketing Period” has the meaning stated in Part 2.5(b).

“Differential Interest Amount” has the meaning specified in Part 2.1 hereof.

“Direct-Pay Liquidity Facility” means a Liquidity Facility that is issued in the form of a direct-pay letter of credit.

“Direct-Pay Liquidity Facility Drawing Account” means the Account that may be established pursuant to Part 5.2 hereof.

“DTC” means The Depository Trust Company, New York, New York, or its successors.

“Electronic Means” means telecopy, facsimile transmission, e-mail transmission or other similar electronic means of communication providing evidence of transmission, including a telephonic communication confirmed by any other method set forth in this definition.

“Eligible Account” means an account that must be maintained either with (i) a federal or state-chartered depository institution or trust company that has a Standard & Poor’s short-term debt rating of at least “A-2” (or, if no short-term debt rating, a long-term debt rating of “BBB+”); or (b) the corporate trust department of a federal depository institution or state-chartered depository institution subject to regulations regarding fiduciary funds on deposit similar to Title 12 of the U.S. Code of Federal Regulation Part 9.10(b), which, in either case, has corporate trust powers and is acting in its fiduciary capacity.

“Expiration Date” means, with respect to a Credit Facility or Liquidity Facility with respect to the Bonds of a subseries, the stated expiration date of such Credit Facility or Liquidity Facility, or such stated expiration date as it may be extended from time to time as provided therein; provided, however, that the “Expiration Date” does not mean any date upon which a Credit Facility or Liquidity Facility is no longer effective by reason of its Termination Date, the date on which all Bonds of such subseries bear interest at a Fixed Rate or an Auction Period Rate or the expiration of such Credit Facility or Liquidity Facility by reason of the obtaining of an Alternate Credit Facility or Alternate Liquidity Facility.

“Expiration Tender Date” has the meaning set forth in Part 4.5(a) hereof.

“Favorable Opinion of Bond Counsel” means, with respect to any action the occurrence of which requires such an opinion, an unqualified opinion of counsel to the effect that such action is permitted under the Ordinance and that such action will not impair the exclusion of interest on such Bonds from gross income for purposes of federal income taxation (subject to the inclusion of any exceptions contained in the opinion delivered upon original issuance of the Bonds).

“Fixed Rate” means an interest rate fixed to the Maturity Date of the Bonds of a subseries.

“Fixed Rate Mode” means the period during which Bonds of a subseries bear interest at a Fixed Rate.

“Interest Payment Date” means the following dates upon which interest is payable on Bonds of a subseries:

- (a) the Maturity Date or any Mode Change Date;
- (b) with respect to a Commercial Paper Rate Bond, the Business Day following the last day of the Interest Period therefor;
- (c) with respect to the Daily Mode and the Weekly Mode, the fifteenth day of each calendar month (provided that if such day is not a Business Day, interest shall be paid on the next Business Day), provided, however, the initial Interest Payment Date for the Bonds shall be September 15, 2008;
- (d) with respect to the Term Rate Mode, each May 15 and November 15 prior to the Purchase Date and the Purchase Date;

(e) with respect to the Auction Rate Mode, each date that is specified as an “Interest Payment Date” in Exhibit 1 hereto;

(f) with respect to the Fixed Rate Mode, each May 15 and November 15, provided that the Interest Payment Dates for the Fixed Rate Mode may be changed in connection with the conversion to such Mode upon receipt of a Favorable Opinion of Bond Counsel; and

(g) with respect to a Liquidity Provider Bond, each date that is specified as a date on which interest is payable thereon pursuant to the Liquidity Facility under which such Liquidity Provider Bond was purchased.

“Interest Period” means the period of time that any interest rate remains in effect, which period:

(a) with respect to a Commercial Paper Rate Bond, is the period of time established by the Remarketing Agent pursuant to Part 2.2 hereof;

(b) with respect to Bonds of a subseries in the Daily Mode, is the period from and including the Closing Date (if initially issued in the Daily Mode), the Mode Change Date that they began to bear interest at the Daily Rate to and excluding the next Business Day and thereafter commencing on each Business Day to and excluding the next Business Day;

(c) with respect to Bonds of a subseries in the Weekly Mode, is the period from and including the Closing Date (if initially issued in the Weekly Mode), the Mode Change Date that they began to bear interest at the Weekly Rate to and including the following Wednesday and thereafter commencing on each Thursday to and including the earlier of the Wednesday of the following week or the day preceding any Mandatory Purchase Date or the Maturity Date;

(d) with respect to Bonds of a subseries in the Term Rate Mode, is the period from and including the Closing Date (if initially issued in the Term Rate Mode), the Mode Change Date when they began to bear interest at the Term Rate, to and including the date selected by the City prior to the Closing Date or the Mode Change Date, as the case may be, as the last day upon which an interest rate determined by the Remarketing Agent pursuant to Part 2.5 hereof is in effect and thereafter is the period beginning on the day after the end of the prior Interest Period and ending on the date selected by the City prior to the end of such Interest Period as the last day upon which an interest rate determined by the Remarketing Agent pursuant to



Part 2.5 hereof is in effect; provided, that no Interest Period may extend beyond the day preceding any Mandatory Purchase Date or the Maturity Date; and

(e) with respect to Bonds of a subseries in the Fixed Rate Mode, is the period from and including the Mode Change Date that they began to bear interest at the Fixed Rate to and including the Maturity Date.

“Kenny Index” means the rate determined on the basis of the Kenny 30-Day High Grade Index announced on Tuesday or the next preceding Business Day and as computed by Kenny Information Systems, Inc.

“Liquidity Facility” means any letter of credit, line of credit, standby purchase agreement or other instrument then in effect which provides for the payment of the purchase price of Bonds upon the tender thereof in the event remarketing proceeds are insufficient therefor. The initial Liquidity Facility for the Bonds is the Series 2008 Liquidity Agreement issued by the Initial Liquidity Facility Provider. The City is required by this Ordinance to provide a Liquidity Facility for all modes other than Auction Mode, a Term Rate Mode of greater than four years and the Fixed Rate Mode.

“Liquidity Facility Provider” shall mean any bank, insurance company, pension fund or other financial institution which provides a Liquidity Facility or Alternate Liquidity Facility for the Bonds, including the Initial Liquidity Facility Provider.

“Liquidity Facility Purchase Account” means the account by the name created pursuant to Part 4.7 hereof.

“Liquidity Provider Bond Maximum Rate” means the greater of 15% per annum or such higher rate as may be permitted by applicable law from time to time, as evidenced by a Favorable Opinion of Bond Counsel to such effect.

“Liquidity Provider Interest Rate” means with respect to any amounts owing under any Liquidity Provider Bond, the rate of interest which is (i) applicable to the amounts owing under such Liquidity Provider Bond as specified in and computed in accordance with the Liquidity Facility and (ii) not in excess of the Maximum Rate.

“Mandatory Purchase Date” means (i) the Purchase Date of Bonds of a subseries in the Commercial Paper Mode or the Term Rate Mode, (ii) any Mode Change Date, (iii) the Interest Non-Reinstatement Tender Date, (iv) the

Substitution Date, (v) the Expiration Tender Date and (vi) the Termination Tender Date.

“Maturity Date” means, with respect to any Bond of a subseries, the final date specified therefor in the Ordinance.

“Maximum Auction Rate” has the meaning set forth in Exhibit 1 hereto.

“Maximum Rate” means, (i) the Tax-Exempt Maximum Rate or such lesser rate as may be specified in the Liquidity Facility for the Bonds of such subseries and (ii) with respect to Bonds of a subseries that are Liquidity Provider Bonds, the Liquidity Provider Bond Maximum Rate; provided, however, that if the Bonds are in the Auction Mode, the Maximum Rate shall be the Maximum Auction Rate; provided, further, that in no event may the Maximum Rate on any such Bonds exceed the maximum rate permitted by applicable law.

“Mode” means the Commercial Paper Mode, the Daily Mode, the Weekly Mode, the Term Rate Mode, the Auction Rate Mode or the Fixed Rate Mode.

“Mode Change Date” means, with respect to Bonds of a subseries, the date one Mode terminates and another Mode begins.

“Mode Change Notice” has the meaning specified in Part 2.8(a) hereof.

“New Mode” has the meaning specified in Part 2.8(b) hereof.

“Notice Parties,” if not the Person providing the notice, means the City, the Paying Agent/Registrar, the Remarketing Agent (if any), the Tender Agent, the Auction Agent (if any), all Broker-Dealers (if any), the Credit Facility Provider (if any), and the Liquidity Facility Provider (if any).

“Officers Pricing Certificate” means a certificate or certificates to be signed by the City Manager or Chief Financial Officer pursuant to the Ordinance containing pricing information and other terms for one or more series of Bonds.

“One Week LIBOR Rate” means, as of any date of determination, the offered rate for deposits in U.S. dollars for a seven-day period which appears on the Telerate Page 3750 at approximately 11:00 a.m., London time, on such date, or if such date is not a date on which dealings in U.S. dollars are transacted in the London interbank market, then on the next preceding day on which such dealings were transacted in such market.

“Paying Agent/Registrar” has the meaning stated in the Ordinance.

“Purchase Date” means with respect to any Bond of a subseries (i) in the Commercial Paper Mode or the Term Rate Mode, the Business Day after the last day of the Interest Period applicable thereto and (ii) during the Daily Mode or Weekly Mode, any Business Day upon which such Bond is tendered or deemed tendered for purchase pursuant to Part 4.1 hereof.

“Purchase Fund” means the fund created in Part 4.7 hereof.

“Purchase Price” means an amount equal to the principal amount of any Bond of a subseries purchased on any Purchase Date or Mandatory Purchase Date, plus, in the case of any Bond of a subseries that has been tendered pursuant to Part 4.1 hereof, unless the Purchase Date for such Bond is also an Interest Payment Date, accrued interest to the Purchase Date.

“Rate Determination Date” means any date on which the interest rate on any Bonds of a subseries is required to be determined, being: (i) in the case of any Commercial Paper Rate Bond, the first day of each Interest Period for any Commercial Paper Rate Bond; (ii) in the case of Bonds of a subseries in the Daily Mode, each Business Day; (iii) in the case of any Bonds of a subseries in the Weekly Mode, for any Interest Period commencing on a Mode Change Date, the Business Day immediately preceding the Mode Change Date, and for any other Interest Period, each Wednesday or, if such Wednesday is not a Business Day, the Business Day next preceding such Wednesday; and (iv) in the case of any Bonds of a subseries to be, or continue to be, in the Term Rate Mode or Fixed Rate Mode, a Business Day prior to the first day of an Interest Period.

“Record Date” means, with respect to Bonds of a subseries (i) in a Commercial Paper Mode, the day (whether or not a Business Day) next preceding each Interest Payment Date, (ii) in the Auction Rate Mode, the Daily Mode or the Weekly Mode, the opening of business on the Business Day next preceding an Interest Payment Date and (iii) in the Term Rate Mode or the Fixed Rate Mode, the 15th day (whether or not a Business Day) of the calendar month next preceding each Interest Payment Date.

“Redemption Date” means the date fixed for redemption of Bonds of a subseries subject to redemption in any notice of redemption given in accordance with the terms hereof.

“Reimbursement Agreement” means the reimbursement agreement dated as of August 1, 2008, between the City and the Initial Liquidity Facility Provider, and any supplement or amendment thereof, or any replacement therefor.

“Remarketing Agents” means a remarketing agent appointed pursuant to the Ordinance and Part 6.1 of this Appendix A.

“Remarketing Agreement” means a remarketing agreement entered into by and between the City and a Remarketing Agent with respect to the Bonds of a subseries pursuant to which the Remarketing Agent has agreed to remarket the Bonds of such subseries on the Purchase Date or the Mandatory Purchase Date at a price of not less than 100% of the principal amount thereof.

“Remarketing Proceeds Account” means the account by that name created in Part 4.7 hereof.

“SIFMA Index” means the Securities Industry and Financial Markets Association Municipal Swap Index reported by the Securities Industry and Financial Markets Association. SIFMA Index was formerly called the BMA Index.

“Substitution Date” means:

(a) the second Business Day preceding the date that is specified in a written notice given to the Paying Agent/Registrar and the Tender Agent in accordance with the Liquidity Facility or the Credit Facility as the date on which the assignment of the obligation of the Liquidity Facility Provider or the Credit Facility Provider under such Liquidity Facility or Credit Facility is effective; provided, however, that any date specified in such written notice as the effective date of such assignment is treated as the effective date of such assignment even if the assignment fails to occur on such date; and

(b) the date that is specified in a written notice given by the City to the Paying Agent/Registrar and the Tender Agent as the date on which an Alternate Credit Facility or an Alternate Liquidity Facility is to be substituted for a then-existing Credit Facility or Liquidity Facility in effect pursuant to Part 5.1 hereof; provided, however, that any date so specified in the written notice is treated as a Substitution Date only if a written notice thereof is given to the Paying Agent/Registrar and the Tender Agent at least 16 days preceding such date; provided further, however, that any date so specified in the written notice is treated as a Substitution Date even if the substitution of the Alternate Credit Facility or the Alternate Liquidity Facility fails to occur on such date.

“Tax-Exempt Maximum Rate” means the greater of 12% per annum or the maximum allowed by Chapter 1204, Texas Government Code, as amended.

“Tender Agent” means the tender agent appointed pursuant to Part 6.2 hereof.

“Tender Agent Agreement” means the tender agent agreement entered into by and between the Tender Agent and the City with respect to the Bonds of a subseries.

“Term Rate” means an interest rate determined pursuant to Part 2.5 hereof.

“Term Rate Mode” means the mode during which Bonds of a subseries bear interest at a Term Rate.

“Termination Date” means, with respect to a Credit Facility or a Liquidity Facility, (i) the date on which such Credit Facility or Liquidity Facility terminates pursuant to its terms or otherwise be terminated prior to its Expiration Date, including as a result of any default or event of default under the Credit Facility or Liquidity Facility, or (ii) the date on which the obligation of the Credit Facility Provider or the Liquidity Facility Provider to provide a loan terminates; provided, however, that “Termination Date” does not mean any date upon which a Credit Facility or Liquidity Facility is no longer effective by reason of its Expiration Date.

“Termination Tender Date” has the meaning set forth in clause (ii) of Part 4.5 hereof.

“Weekly Mode” means a period of time during which Bonds of a subseries bear interest at a Weekly Rate.

“Weekly Rate” means an interest rate determined pursuant to Part 2.4 hereof.

## **Part 1.2     Rules of Construction.**

(a) This Appendix A is an integral part of the Ordinance and, except to the extent provided in the next sentence, has the same force and effect as if set forth in the Ordinance. In the event of any conflict between this Appendix A and the Ordinance, the Ordinance controls.

(b) If the Bonds of any subseries are issued in or re-designated into two or more subseries, references in the Ordinance and in this Appendix A to the Bonds of a subseries is deemed to refer to Bonds of such subseries.

(c) Unless otherwise provided in the Ordinance and this Appendix A, references in the Ordinance and in this Appendix A to “time” is deemed

to refer to New York, New York time. All times herein may be adjusted from time to time in connection with a Mandatory Tender on a Substitution Date.

## **ARTICLE II**

### **INTEREST RATE MODES, INTEREST RATES AND PAYMENT**

**Part 2.1     Denominations; Medium, Method and Place of Payment of Principal and Interest.** Interest on Bonds of a subseries issued in the Commercial Paper Mode, the Daily Mode or Weekly Mode is calculated on the basis of a 365/366-day year for the actual number of days elapsed to the Interest Payment Date. Interest on Bonds of a subseries issued in the Auction Rate Mode with an Auction Period over 180 days, the Term Rate Mode or Fixed Rate Mode is calculated on the basis of a 360-day year composed of twelve 30-day months. Interest on Bonds of a subseries issued in the Auction Rate Mode with an Auction Period of 180 days or less is calculated on the basis of a 360-day year for the actual number of days elapsed to the Interest Payment Date.

The interest rates for Bonds of a subseries contained in the records of the Paying Agent/Registrar are conclusive and binding upon the City, the Remarketing Agent, the Tender Agent, the Paying Agent/Registrar, the Auction Agent, all Broker-Dealers, the Liquidity Facility Provider, the Credit Facility Provider and the Owners.

The payment of the Purchase Price of Bonds of a subseries on any Purchase Date or Mandatory Purchase Date, as the case may be, will be made by wire transfer in immediately available funds by the Tender Agent to the account specified by the Owner in a written direction received by the Tender Agent or, if no such account number is furnished, by check mailed by the Tender Agent to the Owner at the address appearing on the books required to be kept by the Paying Agent/Registrar pursuant to the Ordinance. Any such direction will remain in effect until revoked or revised by such Owner by an instrument in writing delivered to the Paying Agent/Registrar or the Tender Agent, as the case may be.

Notwithstanding the provisions of Parts 2.2 through 2.7, inclusive, each Liquidity Provider Bond bears interest on the outstanding principal amount thereof, and on the amount (if any) of accrued and unpaid interest thereon, at the Liquidity Provider Interest Rate for each day from and including the date such Bond becomes a Liquidity Provider Bond to, but not including, the date such Bond is paid in full or is remarketed. The Owner of a Bond of a subseries other than the

Liquidity Facility Provider or its permitted assignee will be paid (and is obligated to pay as part of the price paid by such Owner in connection with the remarketing to it of such Bonds) interest thereon for an Interest Period only in the amount that would have accrued thereon at the rate or rates established pursuant to Parts 2.2, through 2.7, as applicable, regardless of whether such Bond was a Liquidity Provider Bond during any portion of such Interest Period. Accrued interest in respect to any Liquidity Provider Bond is payable to the Liquidity Facility Provider or its permitted assignee on each Interest Payment Date applicable thereto; provided that any fees, or Excess Interest (as such term is defined in the Reimbursement Agreement), due to the Liquidity Facility Provider or its permitted assignee shall be paid by the City as provided in Reimbursement Agreement.

No Bond of a subseries may bear interest at an interest rate higher than the Maximum Rate.

**Part 2.2 Determination of Interest Rates and Interest Periods During Commercial Paper Mode.** Interest Periods in a Commercial Paper Mode are of such duration, of at least one day and not more than 270 days, ending on a day next preceding a Business Day or the Maturity Date, as the Remarketing Agent determines in accordance with the provisions of this Part 2.2. In making the determinations with respect to Interest Periods, subject to the limitations imposed by the preceding sentence, the Remarketing Agent shall on each Rate Determination Date select for each Bond of a subseries then subject to such adjustment the Interest Period which, if implemented on such Rate Determination Date, would result in the Remarketing Agent being able to remarket such Bond at par in the secondary market at the lowest interest rate then available and for the longest Interest Period available at such rate, provided that if on any Rate Determination Date, the Remarketing Agent determines that current or anticipated future market conditions or anticipated future events are such that a different Interest Period would result in a lower average interest cost on such Bond, then the Remarketing Agent shall select the Interest Period which in the judgment of the Remarketing Agent would permit such Bond to achieve such lower average interest cost; provided, however, that if the Remarketing Agent receives notice from the City that any Bond of a subseries is to be changed from the Commercial Paper Mode to any other Mode or if it is to be purchased pursuant to Part 4.5, the Remarketing Agent shall, with respect to such Bond, select Interest Periods which do not extend beyond the Mandatory Purchase Date.

By 11:45 a.m. on each Rate Determination Date, the Remarketing Agent, with respect to each Commercial Paper Rate Bond that is subject to adjustment on such date, will determine an interest rate for the Interest Period then selected for

such Bond and, no later than 11:45 a.m., must give notice by Electronic Means to the Paying Agent/Registrar of the applicable Interest Period, Purchase Date and interest rate.

Anything in this Appendix A to the contrary notwithstanding, to the extent a Liquidity Facility and/or Credit Facility is in effect, no Interest Period may be implemented and no interest rate for such Interest Period may be determined if it would cause the principal of and interest on Bonds in the Commercial Paper Mode to be Outstanding immediately thereafter to be in excess of the Available Amount therefor. No remarketing of Bonds in the Commercial Paper Mode may be given effect by the Paying Agent/Registrar if it would cause such limitation to be exceeded.

By acceptance of any Commercial Paper Rate Bond, the Owner thereof is deemed to have agreed, during each Interest Period, to the interest rate (including the Alternate Rate, if applicable), Interest Period and Purchase Date then applicable thereto and to have further agreed to tender such Bond to the Tender Agent for purchase on the next succeeding Purchase Date at the Purchase Price. Such Owner further acknowledges that if funds for such purchase are on deposit with the Tender Agent on such Purchase Date, such Owner has no rights under the Ordinance other than to receive the payment of such Purchase Price and that interest ceases to accrue to such Owner on such Purchase Date.

**Part 2.3     Determination of Interest Rate During Daily Mode.** The interest rate for any Bond of a subseries in the Daily Mode is the rate of interest per annum determined by the Remarketing Agent on or before 9:30 a.m. on the Rate Determination Date as the minimum rate of interest that, in the opinion of the Remarketing Agent, would, under then existing market conditions, result in the sale of the Bonds of the subseries in the Daily Mode on the Rate Determination Date at a price equal to the principal amount thereof, plus accrued interest, if any. The Remarketing Agent shall make the rate available by Electronic Means to each other Notice Party by 10:30 a.m. on the Rate Determination Date. With respect to any day that is not a Business Day, the interest rate is the same rate as the interest rate established for the immediately preceding Business Day. The determination of each interest rate by the Remarketing Agent, in the absence of manifest error, is conclusive and binding upon the Remarketing Agent, the Tender Agent, the Paying Agent/Registrar, the Liquidity Facility Provider, the Credit Facility Provider, the City and the Owners.

**Part 2.4     Determination of Interest Rate During Weekly Mode.** To the extent the Bonds of a subseries are initially issued in a Weekly Mode, the



interest rate for Bonds of such subseries for the initial Interest Period is the rate of interest per annum set forth in the Bond Purchase Agreement. For any Interest Period that is not an initial Interest Period, the interest rate for Bonds of a subseries in a Weekly Mode for each such Interest Period is the rate of interest per annum determined by each Remarketing Agent on and as of the applicable Rate Determination Date or, in the case of an optional tender of Bonds, the optional tender date, as the minimum rate of interest that, in the opinion of the Remarketing Agent, would, under then existing market conditions, result in the sale of the Bonds of the subseries in the Weekly Mode on the Rate Determination Date or the optional tender date, as applicable, at a price equal to the principal amount thereof, plus accrued interest, if any. The Remarketing Agent shall make the rate available by Electronic Means to each other Notice Party by 5:00 p.m. on the Rate Determination Date or the optional tender date, as applicable. The determination of each interest rate by the Remarketing Agent is conclusive and binding, in the absence of manifest error, upon the Remarketing Agent, the Tender Agent, the Paying Agent/Registrar, the Liquidity Facility Provider, the Credit Facility Provider, the City and the Owners.

**Part 2.5      Determination of Term Rate(s) and Fixed Rate.**

(a)    Term Rates. The Term Rate to be effective for the Interest Period commencing on any Mode Change Date after which Bonds of a subseries will bear interest at a Term Rate or any Purchase Date while Bonds of a subseries are in the Term Rate Mode is determined by the Remarketing Agent. No later than 4:00 p.m. on the Business Day next preceding the Mode Change Date or the Purchase Date, as the case may be, the Remarketing Agent shall determine the Term Rate and shall make the Term Rate available by Electronic Means to each other Notice Party. The Term Rate shall be the minimum rate that would result in a sale of the Bonds of the subseries at a price equal to the principal amount thereof plus premium, if any, on the Rate Determination Date, taking into consideration the duration of the Interest Period, which is established by the City.

(b)    Fixed Rate. The Fixed Rate to be effective for the Interest Period commencing on any Mode Change Date after which Bonds of a subseries will bear interest at a Fixed Rate, is determined by the Remarketing Agent. No later than 4:00 p.m. on the Business Day next preceding the Mode Change Date, the Remarketing Agent shall determine the Fixed Rate and shall make the Fixed Rate available by Electronic Means to each other Notice Party. The Fixed Rate is the minimum rate that, in the sole judgment of the Remarketing Agent, would result in a sale of the Bonds

of the subseries at a price equal to the principal amount thereof on the Rate Determination Date taking into consideration the duration of the Interest Period.

(c) Failure to Establish Term Rate or Fixed Rate. If, for any reason, a Term Rate or Fixed Rate cannot be established on a Mode Change Date or Purchase Date, as the case may be, the Bonds of the subseries affected, other than Bonds of a subseries in an Auction Rate Mode, will be changed automatically to the Weekly Mode on the Purchase Date. Notwithstanding the foregoing, if the Bonds of a subseries are in a Term Rate Mode and there is a failure to pay the Purchase Price of the Bonds of such subseries on the Purchase Date, the Bonds of such subseries bear interest at the Maximum Rate from the failed Purchase Date to the date that all such Bonds are successfully remarketed (the "Delayed Remarketing Period") until such Purchase Price is paid.

**Part 2.6 Alternate Rate for Interest Calculation.** If (i) the Remarketing Agent fails to determine the interest rate(s) or Interest Periods for the Bonds of a subseries, or (ii) the method of determining the interest rate(s) or Interest Periods with respect to the Bonds of a subseries is held unenforceable by a court of law of competent jurisdiction, the Bonds of a subseries, other than Bonds of a subseries in an Auction Rate Mode, shall thereupon, (i) in the case of Commercial Paper Rate Bonds and Bonds in the Daily Mode and Term Rate Mode, be automatically converted to a Weekly Rate Mode, and (ii) in the case of Bonds in the Weekly Rate Mode, or Bonds to be converted to the Weekly Mode pursuant to clause (i) above and such Weekly Rate Mode has failed to be determined, bear interest at the Alternate Rate for subsequent Interest Periods, in each case until the Remarketing Agent again makes such determination or until there is delivered to the City and the Paying Agent/Registrar a Favorable Opinion of Bond Counsel. Notwithstanding the foregoing, if the Bonds of a subseries are in a Term Rate Mode and there has been a failure to pay the Purchase Price of the Bonds of such subseries on the Purchase Date, the Bonds of such subseries shall bear interest in accordance with Part 2.8(c)(7).

**Part 2.7 Determination of Interest Rate and Auction Period During Auction Rate Mode.**

(a) During any Auction Rate Mode, the Bonds of a subseries bear interest at the Auction Period Rate for each Auction Period determined as set forth in this Part 2.7 and Exhibit 1 hereto. The provisions of such Exhibit 1

constitute an integral part of this Appendix and the Ordinance and have the same force and effect as if set forth in this Appendix A or the Ordinance.

If the Mode applicable to the Bonds of a subseries is changed to an Auction Rate Mode, the initial Auction Period immediately after such change commences from and includes the Mode Change Date and expires on and includes the initial Auction Date. The initial Auction Date (which is the day of the week on which Auctions will generally be conducted) immediately after any change in the Mode applicable to the Bonds of a subseries to an Auction Rate Mode, is the date determined and certified to the Paying Agent/Registrar (with a copy to the Remarketing Agent, the Broker-Dealer(s), the Auction Agent and the Credit Facility Provider (if any)) by the City on or before the Mode Change Date. The Auction Period Rate for any initial Auction Period immediately after any change in the Mode applicable to the Bonds of a subseries to an Auction Rate Mode is the rate of interest per annum determined and certified to the Paying Agent/Registrar (with a copy to the City, the Remarketing Agent, the Auction Agent, the other Broker-Dealers, if any, and the Credit Facility Provider (if any)) by the Broker-Dealer designated by the City on a date not later than the Mode Change Date as the minimum rate of interest which, in the opinion of such Broker-Dealer, would be necessary as of such date to market Bonds of a subseries in an Auction Rate Mode in a secondary market transaction at a price equal to the principal amount thereof; provided that such interest rate may not exceed the Maximum Rate. After the initial Auction Period, each Auction Period is an Auction Period certified to the Paying Agent/Registrar (with a copy to the Remarketing Agent, the Broker-Dealer(s), the Auction Agent and the Credit Facility Provider (if any)) by the City on or before the Mode Change Date, unless such Auction Period is adjusted or changed to a daily, 7-day, 28-day, 35-day, three-month, six-month or a Special Auction Period in accordance with Exhibit 1 hereto. For any other Auction Period that is not an initial Auction Period, the Auction Period Rate is the rate of interest determined in accordance with Exhibit 1.

(b) During any Auction Rate Mode, upon the occurrence of (i) a default of the City in the payment of principal, Sinking Fund Installment, interest or premium on any Bond of a subseries in the Auction Rate Mode after the same becomes due, whether at maturity, upon call for redemption or on an Interest Payment Date and (ii) a default of the Credit Facility Provider under the Credit Facility securing such Bond, if any, the Paying Agent/Registrar must immediately give notice of the occurrence of such

events to the Auction Agent. Immediately after the Credit Facility Provider cures its default under the Credit Facility by making payments that the City failed to make when the same became due, the Paying Agent/Registrar shall give notice of such payment to the Auction Agent.

(c) (1) Less than all of the Bonds of a subseries then subject to a particular Auction Period may be converted to another Auction Period in accordance with Exhibit 1; provided, however, that in such event such subseries is re-designated into two or more further subseries for each separate Auction Period with a new CUSIP number for each such further subseries.

(2) If less than all of the Bonds of a subseries then subject to a particular Auction Period are converted to another Auction Period in accordance with Exhibit 1, then the Auction Agent will select in its discretion the particular Bonds of a subseries or portions thereof which are to be converted to a new Auction Period subject to the provisions hereof regarding Authorized Denominations of Bonds of a subseries subject to such Mode.

(3) All Bonds of any subseries must be in the same Auction Period, except to the extent that the Bonds of any subseries are issued in or re-designated into two or more further subseries. If the Bonds of any subseries are issued in or re-designated into two or more further subseries, then all Bonds within any subseries must be in the same Auction Period.

## **Part 2.8     Changes in Mode.**

(a) Changes. Any Mode, other than a Fixed Rate Mode, may be changed to any other Mode at the times and in the manner hereinafter provided. Subsequent to such change in Mode, the Bonds of the subseries may again be changed to a different Mode at the times and in the manner hereinafter provided. Any Bonds of a subseries converted to a Fixed Rate Mode may not be changed to any other Mode.

(b) Notice of Intention to Change Mode. To effect a Mode change, the City shall give written notice (the "Mode Change Notice") to the Notice Parties of its intention to effect a change in the Mode from the Mode then prevailing (the "Current Mode") to another Mode (the "New Mode") specified in such written notice, together with the proposed Mode Change

Date. Such notice must be given at least 20 days prior to the Mode Change Date.

(c) General Provisions Applying to Changes from One Mode to Another.

(1) The Mode Change Date must be a Business Day.

(2) Additionally, the Mode Change Date:

(A) from the Commercial Paper Mode is the last Purchase Date for the Commercial Paper Rate Bonds with respect to which a change is to be made;

(B) from a Term Rate Mode is the Purchase Date of the current Interest Period; and

(C) from an Auction Rate Mode is the Interest Payment Date following the last day of an Auction Period.

(3) On or prior to the date the City provides the notice to the Notice Parties pursuant to Part 2.8(b) hereof, the City shall deliver to the Paying Agent/Registrar a letter from counsel satisfactory to the Paying Agent/Registrar and addressed to the Paying Agent/Registrar (with a copy to all other Notice Parties) to the effect that such counsel expects to be able to deliver a Favorable Opinion of Bond Counsel on the Mode Change Date.

(4) No change in Mode will become effective unless all conditions precedent thereto are met and the following items are delivered to the Paying Agent/Registrar and the Remarketing Agent by 11:00 a.m. or such later time as is acceptable to the City, the Paying Agent/Registrar and the Remarketing Agent, on the Mode Change Date:

(A) except for a change in Mode pursuant to Parts 2.5(c), 2.6 or Part 2.8(c)(6), a Favorable Opinion of Bond Counsel dated the Mode Change Date;

(B) if required, unless Tender Agent and Remarketing Agreements are already effective, executed copies of Tender Agent and Remarketing Agreements;

(C) a certificate of an authorized officer of the Tender Agent to the effect that all of the Bonds of a subseries tendered or deemed tendered, unless otherwise redeemed, have been purchased at a price at least equal to the Purchase Price thereof;

(D) with respect to a change in the Mode to an Auction Rate Mode, an executed copy of an Auction Agreement and one or more Broker-Dealer Agreements.

(5) If all conditions to the Mode change are met, the Interest Period(s) or the Auction Period for the New Mode commences on the Mode Change Date and the Interest Rate(s) (together, in the case of a change to the Commercial Paper Mode, with the Interest Period(s)) shall be determined by the Remarketing Agent in the manner provided in Parts 2.2 through 2.7, as applicable.

(6) With respect to a change in the Mode from any Mode (other than an Auction Rate Mode or a Term Rate Mode) to any other Mode, if the foregoing conditions have not been satisfied by the Mode Change Date, the New Mode shall not take effect and (1) no purchase or tender of Bonds shall be consummated on the Mandatory Purchase Date, (2) the Tender Agent shall return all tendered Bonds to the Owner thereof, and (3) the Tender Agent will return all remarketing proceeds to the Remarketing Agent for return to the Persons who provided such funds. The Bonds of the subseries that are the subject of the Mode Change Notice are changed to Bonds in the Weekly Mode on the failed Mode Change Date; provided, however, if such Bonds are in the Weekly Mode, the interest rate shall be determined in accordance with this Ordinance on and as of the failed Mode Change Date.

(7) With respect to a change in the Mode from a Term Rate Mode to any other Mode, if the foregoing conditions have not been satisfied by the Mode Change Date, the New Mode shall not take effect and (1) no purchase or tender of Bonds shall be consummated on the Mandatory Purchase Date, (2) the Tender Agent shall return all tendered Bonds to the Owner thereof, and (3) the Tender Agent will return all remarketing proceeds to the Remarketing Agent for return to the Persons providing the money. On each Business Day following the failed remarketing, the Remarketing Agent will continue to use its best efforts to remarket the applicable Bonds into the Mode

designated by the City (or such other Mode as the City thereafter designates to the Remarketing Agent and the prospective Owners). When the Remarketing Agent advises the City, the Paying Agent/Registrar, and the Tender Agent that it believes in good faith that it is able to remarket all of the Bonds into the designated Mode, the Paying Agent/Registrar will give notice meeting the requirements of Part 4.6(f) for a notice of a Mode Conversion Date to the Holders of such Bonds not later than five days prior to the new Mandatory Purchase Date. During the Delayed Remarketing Period, the Bonds will pay interest to the Owners thereof (i) as if in the Term Rate Mode on May 15 and November 15 and (ii) the new Mandatory Purchase Date, and will bear interest at the Tax Exempt Maximum Rate.

(8) With respect to a change in the Mode from an Auction Rate Mode to any other Mode, in the event the foregoing conditions have not been satisfied, the Bonds of a subseries that are subject to the Mode Change Notice will not be subject to mandatory tender for purchase, will continue to bear interest in the Auction Rate Mode and the Auction Period Rate for the Auction Period commencing on the failed Mode Change Date is equal to the Maximum Auction Rate as determined on the Auction Date for such Auction Period and the Auction Period commencing on the failed Mode Change Date is a seven-day Auction Period. Thereafter, the Auction Period Rate for each succeeding Auction Period is determined in accordance with Exhibit 1 and each Auction Period is a seven-day Auction Period until the length of the Auction Period is changed in accordance with Exhibit 1.

(d) Serial Bonds. In the notice given pursuant to Part 2.8(b) hereof in connection with any change of Bonds of a subseries to the Term Rate Mode or Fixed Rate Mode, the City may provide that all or some of such Bonds shall be Serial Bonds. The principal amount of Serial Bonds due on any date is equal to the sinking fund installment specified for such date in the Ordinance, and the remaining sinking fund installments continue to be Sinking Fund Installments for the Bonds of the subseries due on the Maturity Date, unless the City specifies otherwise in the notice. The interest rate for the Serial Bonds maturing on a particular date may differ from the interest rate or rates established for other Bonds.

(e) Partial Mode Changes and Further Subseries Designations.

(1) Less than all of the Bonds of a subseries then subject to a particular Mode may be converted to another Mode pursuant to this Part 2.8 hereof; provided, however, that in such event such subseries shall be re-designated into two or more further subseries for each separate Mode with a new CUSIP number for each further subseries.

(2) If less than all of the Bonds of a subseries then subject to a particular Mode are converted to another Mode pursuant to this Part 2.8 hereof, the particular Bonds of a subseries or portions thereof which are to be converted to a New Mode shall be selected by the Paying Agent/Registrar in its discretion subject to the provisions hereof regarding Authorized Denominations of Bonds of a subseries subject to such New Mode.

**ARTICLE III**

**[RESERVED]**

**ARTICLE IV**

**PURCHASE OF BONDS**

**Part 4.1 Optional Tenders of Bonds in Daily Mode and Weekly Mode.**

(a) Any Bond of a subseries (or portions thereof in Authorized Denominations) in the Daily Mode that is not a Liquidity Provider Bond is subject to purchase, on the demand of the Owner thereof, at a price equal to the Purchase Price on any Business Day (such purchase to be made on the Business Day upon which such demand is made), upon irrevocable notice submitted by Electronic Means to the Tender Agent and the Remarketing Agent (promptly confirmed in writing by such Owner, delivered to the Tender Agent and the Remarketing Agent by telecopier by 11:00 a.m., or such other time as required by the Liquidity Facility, at their respective offices set forth in Part 13.07 of the Ordinance) which states the number and principal amount of such Bond being tendered and the Purchase Date. Such tender notice, once transmitted to the Tender Agent, is irrevocable with respect to the tender for which such tender notice was delivered and such tender shall occur on the Business Day specified in such tender notice. The



Tender Agent shall, as soon as practicable, notify the Paying Agent/Registrar of the principal amount of Bonds of the subseries being tendered. The contents of any such irrevocable telephonic tender notice is conclusive and binding on all parties.

(b) The Owners of Bonds of a subseries in a Weekly Mode that are not Liquidity Provider Bonds and are not owned by or on behalf of the City may elect to have such Bonds (or portions thereof in Authorized Denominations) purchased at a price equal to the Purchase Price upon irrevocable notice submitted by Electronic Means to the Tender Agent and the Remarketing Agent, promptly confirmed in writing to the Tender Agent and Remarketing Agent at their respective offices set forth in Part 13.07 of the Ordinance, not later than 4:00 p.m. on a Business Day not less than seven days before the Purchase Date specified by the Owner. Such notice shall (i) state the number and the principal amount of such Bond being tendered and (ii) state that such Bond shall be purchased on the Purchase Date so specified by the Owner. The Tender Agent shall notify the Remarketing Agent, Paying Agent/Registrar, City, and any Liquidity Facility Provider by 11:00 a.m. on the next succeeding Business Day of the receipt of any notice pursuant to this paragraph.

(c) Notwithstanding anything herein to the contrary, during any period that the Bonds of a subseries are issued registered in the name of DTC or a nominee thereof pursuant to the Ordinance, (i) any notice of tender delivered pursuant to this Part shall identify the DTC participant through whom the beneficial owner will direct transfer; (ii) on or before the Purchase Date, the beneficial owner must direct (or if the beneficial owner is not a DTC participant, cause its DTC participant to direct) the transfer of said Bond on the records of DTC; and (iii) it shall not be necessary for Bonds of a subseries to be physically delivered on the date specified for purchase thereof, but such purchase shall be made as if such Bonds had been so delivered, and the Purchase Price thereof shall be paid to DTC. In accepting a notice of tender of any Bond of a subseries pursuant to this Part, the Paying Agent/Registrar and the Tender Agent may conclusively assume that the Person providing the notice of tender is the beneficial owner of the Bonds being tendered and therefore entitled to tender them. The Paying Agent/Registrar and Tender Agent assume no liability to anyone in accepting a notice of tender from a Person whom it reasonably believes to be such a beneficial owner of the Bonds of the subseries.

**Part 4.2 Mandatory Purchase at End of Commercial Paper Mode Interest Periods.** Except for Liquidity Provider Bonds, each Bond of a subseries in the Commercial Paper Mode is subject to mandatory tender for purchase on its Purchase Date at the Purchase Price. No notice of such mandatory purchase shall be given to the Owners.

**Part 4.3 Mandatory Purchase on Any Mode Change Date.** Except for Liquidity Provider Bonds, the Bonds of a subseries to be changed to any Mode from any other Mode are subject to mandatory tender for purchase on the Mode Change Date at the Purchase Price.

**Part 4.4 Mandatory Purchase at End of each Term Rate Mode Interest Period.** Except for Liquidity Provider Bonds, the Bonds of a subseries in the Term Rate Mode are subject to mandatory tender for purchase on each Purchase Date at the Purchase Price.

**Part 4.5 Mandatory Purchase Upon Expiration Date, Termination Tender Date, and Substitution Date.** Except for Liquidity Provider Bonds and Bonds owned by or on behalf of the City, the Bonds of a subseries are subject to mandatory tender at the Purchase Price for purchase on:

(a) the second Business Day preceding the Expiration Date of a Credit Facility or Liquidity Facility, which second Business Day is hereinafter referred to as an “Expiration Tender Date”;

(b) the fifth calendar day (or if such day is not a Business Day, the preceding Business Day) following the receipt by the Paying Agent/Registrar of a written notice from a Credit Facility Provider or Liquidity Facility Provider as a result of an event of default or other event which directs the Paying Agent/Registrar to cause a mandatory tender, which fifth calendar day is hereinafter referred to as a “Termination Tender Date”, if the Liquidity Facility permits a draw thereon on the Termination Tender Date; and

(c) the Substitution Date for a Credit Facility or a Liquidity Facility.

**Part 4.6 Notice of Mandatory Tender for Purchase.**

(a) The Paying Agent/Registrar shall, at least 15 days prior to the Expiration Tender Date with respect to Bonds of a subseries, give notice to the Owners and Notice Parties of the mandatory tender of the Bonds of such

subseries on such Expiration Tender Date if it has not theretofore received confirmation that the Expiration Date has been extended.

(b) Upon receipt of a written notice from the Credit Facility Provider, the Liquidity Facility Provider or the City that the Credit Facility or the Liquidity Facility, as the case may be, will terminate or the obligation of the Credit Facility Provider or Liquidity Facility Provider, as the case may be, to provide a loan thereunder will terminate prior to its Expiration Date, the Paying Agent/Registrar shall within one Business Day after receipt of such written notice give notice to the Owners and any other Notice Parties of the mandatory tender of the Bonds of such subseries that is to occur on such Termination Tender Date if it has not theretofore received from the Credit Facility Provider, the Liquidity Facility Provider or the City, as the case may be, a notice to the Owners stating that the event which resulted in the Credit Facility Provider, the Liquidity Facility Provider or the City giving a notice of the Termination Date has been cured and that the Credit Facility Provider, the Liquidity Facility Provider or the City has rescinded its election to terminate the Credit Facility or Liquidity Facility, as the case may be. Notwithstanding anything to the contrary in subpart (e) below, such notice shall be given by Electronic Means capable of creating a written notice. Any notice given substantially as provided in this subpart is conclusively presumed to have been duly given, whether or not actually received by each Owner.

(c) The Paying Agent/Registrar shall, at least 15 days prior to any Substitution Date with respect to a Liquidity Facility relating to any Bonds, give notice of the mandatory tender of such Bonds that is to occur on such Substitution Date to the Owners and the Notice Parties.

(d) The Paying Agent/Registrar shall, at least 15 days prior to any Mode Change Date or any Purchase Date (other than a Purchase Date for any Commercial Paper Rate Bond or a Purchase Date under Clause (ii) of the definition thereof) give notice to the Owners and the Notice Parties of the mandatory tender for purchase of such Bonds that is to occur on such date.

(e) Except as provided in Part 4.2, notice of any mandatory tender of Bonds of a subseries shall state that such Bonds are to be purchased pursuant to Parts 4.3, 4.4 or 4.5, and except as provided in Part 4.5(b) shall be provided by the Paying Agent/Registrar or caused to be provided by the Paying Agent/Registrar by mailing a copy of the notice of mandatory tender

by first-class mail to each Owner of Bonds of the subseries at the respective addresses shown on the registry books. Each notice of mandatory tender for purchase shall identify the reason for the mandatory tender for purchase, and specify the Mandatory Purchase Date, the Purchase Price, the place and manner of payment, that the Owner has no right to retain such Bonds and that no further interest will accrue from and after the Mandatory Purchase Date to such Owner. Each notice of mandatory tender for purchase caused by a change in the Mode applicable to the Bonds of a subseries shall in addition specify the conditions that have to be satisfied pursuant to Part 2.8 hereof in order for the New Mode to become effective and the consequences that the failure to satisfy any of such conditions would have. In the event a mandatory tender of Bonds of a subseries shall occur at or prior to the same date on which an optional tender for purchase is scheduled to occur, the terms and conditions of the applicable mandatory tender for purchase shall control. The Paying Agent/Registrar shall give a copy of any notice of mandatory tender given by it to the other Notice Parties. Any notice to Owners mailed or given as provided in this Part is conclusively presumed to have been duly given, whether or not the Owner of any Bond receives the notice, and the failure of such Owner to receive any such notice shall not affect the validity of the action described in such notice. Failure by the Paying Agent/Registrar to give a notice as provided in this Part shall not affect the obligation of the Tender Agent to purchase the Bonds of a subseries subject to mandatory tender for purchase on the Mandatory Purchase Date.

#### **Part 4.7     Purchase Fund.**

(a) Funds and Accounts. There is hereby created and established, and there shall be maintained as an Eligible Account with the Tender Agent for the Bonds of each subseries, a separate fund to be known as the “Purchase Fund”. The Tender Agent shall further establish a separate account within such Purchase Fund to be known as the “Liquidity Facility Purchase Account” and a separate account within such Purchase Fund to be known as the “Remarketing Proceeds Account”, each of which shall be an Eligible Account. To the extent that the Bonds of a subseries are re-designated into two or more further subseries, the Tender Agent shall establish and maintain a separate Purchase Fund with separate accounts therein for the Bonds of each such further subseries, which shall be Eligible Accounts.

(b) Remarketing Proceeds Account. Upon receipt of the proceeds of a remarketing of Bonds of a subseries on a Purchase Date or Mandatory Purchase Date, the Tender Agent shall deposit such proceeds in the related Remarketing Proceeds Account for application to the payment of the Purchase Price of such Bonds. Notwithstanding the foregoing, upon receipt of the proceeds of a remarketing of Liquidity Provider Bonds, the Tender Agent shall immediately pay such proceeds to or for the account of the related Liquidity Facility Provider to the extent of any amount owing to the Liquidity Facility Provider.

(c) Liquidity Facility Purchase Account. Upon receipt by the Tender Agent of the proceeds of any draw on a Liquidity Facility supporting Bonds of a subseries that are transferred to such Tender Agent pursuant to Part 4.1(a) hereof, the Tender Agent shall deposit such moneys in the related Liquidity Facility Purchase Account for application to the payment of the Purchase Price of Bonds of such subseries. Any amounts deposited in the Liquidity Facility Purchase Account for a subseries of Bonds and not needed with respect to any Purchase Date or Mandatory Purchase Date for payment of the Purchase Price for any Bonds of such subseries shall be returned immediately to the Liquidity Facility Provider.

(d) No Investment; Amounts Applied Solely to Related Subseries. Amounts held by the Tender Agent in the Liquidity Facility Purchase Account and the Remarketing Proceeds Account relating to the Bonds of a subseries shall not be deemed as part of the Trust Estate and shall be held uninvested and separate and apart from all other funds and accounts. Amounts so held or available to be drawn under the Liquidity Facility for deposit in a Liquidity Facility Purchase Account shall not be available to pay the Purchase Price of Bonds of any subseries other than Bonds of a subseries that are supported by such Liquidity Facility.

(e) Payment of Purchase Price by Tender Agent. The Tender Agent shall pay the Purchase Price of Bonds of a subseries to their Owners from the moneys in the Liquidity Facility Purchase Account and the Remarketing Proceeds Account in accordance with this Appendix A by 3:30 p.m. on any Purchase Date or Mandatory Purchase Date, as the case may be.

(f) No Lien for Tender Agent. The Tender Agent shall have no lien on amounts in the Liquidity Purchase Account or the Remarketing Proceeds Account for payment of fees or other amounts owed to the Tender Agent.

**Part 4.8     Remarketing of Bonds of a Subseries; Notices.**

(a)     Remarketing of Bonds of a Subseries.     The Remarketing Agent(s) for Bonds of a subseries shall offer for sale at par and use its best efforts to find purchasers for (i) all Bonds of such subseries or portions thereof as to which notice of tender pursuant to Part 4.1 has been given and (ii) all Bonds required to be tendered for purchase. To the extent a Liquidity Facility is in effect, no Bonds of a subseries supported by such Liquidity Facility shall be remarketed to the City nor may any Liquidity Provider Bonds be remarketed unless the Liquidity Facility has been reinstated by the amount of the reduction that occurred when such Bonds became Liquidity Provider Bonds

(b)     Notice of Remarketing; Registration Instructions; New Bonds.

(1)     The Remarketing Agent shall notify the Tender Agent by Electronic Means not later than 12:45 p.m. on the Purchase Date or Mandatory Purchase Date of the registration instructions as may be necessary to re-register Bonds; and

(2)     Unless otherwise permitted by the Securities Depository and the book-entry-only system applicable to a subseries of Bonds, the Tender Agent shall authenticate and have available for delivery to the Remarketing Agent prior to 2:30 p.m. on the Purchase Date or Mandatory Tender Date new Bonds of the subseries for the respective purchasers thereof.

(c)     Transfer of Funds; Draw on Liquidity Facility.

(1)     The Remarketing Agent shall at or before 9:30 a.m. on the Purchase Date or Mandatory Purchase Date, as the case may be, (x) notify the City, the Paying Agent/Registrar and the Tender Agent by Electronic Means of the amount of tendered Bonds of the subseries that were not successfully remarketed, and (y) confirm by Electronic Means to the Paying Agent/Registrar and the Tender Agent the transfer of the Purchase Price of remarketed Bonds of the subseries to the Tender Agent in immediately available funds at or before 9:45 a.m., such confirmation to include the pertinent Fed Wire reference number.

(2)     To the extent a Liquidity Facility is in effect, the Paying Agent/Registrar or the Tender Agent acting on its behalf shall draw on

the Liquidity Facility, in accordance with the terms thereof before 10:30 a.m. on the Purchase Date or Mandatory Purchase Date, as the case may be, in an amount equal to the Purchase Price of all Bonds of the subseries tendered or deemed tendered less the aggregate amount of remarketing proceeds confirmed to the Paying Agent/Registrar and the Tender Agent by the Remarketing Agent pursuant to clause (i) of this subpart and shall cause the proceeds of such draw to be transferred to the Tender Agent by no later than 2:30 p.m. provided notice of such draw is delivered to the Paying Agent/Registrar (or the Tender Agent acting on its behalf) in accordance with the terms of the Credit Facility Agreement. Notwithstanding the foregoing, the Paying Agent/Registrar (or the Tender Agent acting on its behalf) shall draw on the Liquidity Facility, if any, in an amount equal to the Purchase Price of all Bonds of the subseries tendered or deemed tendered for purchase on each Purchase Date or Mandatory Purchase Date, as the case may be, if it does not receive a confirmation from the Remarketing Agent pursuant to clause (i) above of this subpart.

(3) To the extent a Liquidity Facility is in effect, the Tender Agent shall confirm to the City and the Paying Agent/Registrar by 2:45 p.m. on the Purchase Date or Mandatory Purchase Date, receipt of the proceeds of any draw on the Liquidity Facility.

(d) Notice to the City of Liquidity Provider Bond Remarketing. The Remarketing Agent shall notify the City by Electronic Means of any proposed remarketing of Liquidity Provider Bonds by the close of business on the Business Day preceding the proposed date of remarketing of such Liquidity Provider Bonds.

**Part 4.9     Source of Funds for Purchase of Bonds of a Subseries.** On or before the close of business on the Purchase Date or the Mandatory Purchase Date with respect to Bonds of a subseries, the Tender Agent shall purchase such Bonds from the Owners at the Purchase Price. Unless otherwise provided in the Ordinance or in a certificate of an Authorized Officer of the City delivered to the Paying Agent/Registrar, the Tender Agent and the Remarketing Agent on a Mandatory Purchase Date, funds for the payment of such Purchase Price shall be derived solely from the following sources in the order of priority indicated:

(a) immediately available funds on deposit in the Remarketing Proceeds Account with respect to Bonds of such subseries; and

(b) to the extent a Liquidity Facility is in effect, immediately available funds on deposit in the Liquidity Facility Purchase Account derived from the Liquidity Facility relating to Bonds of such subseries.

Notwithstanding the foregoing, unless otherwise provided in the Ordinance or in a certificate of an Authorized Officer of the City delivered to the Paying Agent/Registrar, the Tender Agent and the Remarketing Agent on a Mandatory Purchase Date (accompanied by an Opinion of Counsel to the effect that such payment will not constitute an avoidable preference under Part 547 of the United States Bankruptcy Code), the City and for so long as the Liquidity Facility Provider is not in default on its payment obligations under the Liquidity Facility may not transfer funds to the Tender Agent for the payment of the Purchase Price of any Bond that is tendered or deemed tendered for purchase in accordance with this Appendix A and the Purchase Price of which is not paid on the Purchase Date or Mandatory Purchase Date from any of the sources identified above. None of the City, the Paying Agent/Registrar, the Tender Agent nor the Remarketing Agent shall have any liability or obligation to pay or, except from the sources identified above, make available such Purchase Price. Unless otherwise provided in the Ordinance or in a certificate of an Authorized Officer of the City delivered to the Paying Agent/Registrar and Tender Agent on a Mandatory Purchase Date, the failure to pay any such Purchase Price for Bonds of a subseries that have been tendered or deemed tendered for purchase from any of the sources identified above shall not constitute an Event of Default under the Ordinance and in the case of such failure none of such Bonds shall be purchased and such Bonds shall remain in the Mode in effect immediately preceding such Purchase Date or Mandatory Purchase Date, as the case may be, unless such Mode is automatically converted to a Weekly Rate Mode pursuant to Part 2.6 hereof, or unless such Bonds are in a Term Mode.

For Bonds in a Term Mode, on each Business Day following the failed remarketing on the applicable Purchase Date, the Remarketing Agent shall continue to use its best efforts to remarket the applicable subseries of Bonds into the Mode Period designated by the City, at the direction of the Authorized Representative (or such other Interest Rate Period as the Paying Agent/Registrar, at the direction of the Authorized Representative shall thereafter designate to the Remarketing Agent). Once the Remarketing Agent has advised the City that it has a good faith belief that it is able to remarket all of the applicable subseries of Bonds into the designated Mode, the Paying Agent/Registrar, at the direction of the Authorized Representative, will give notice by mail to the Owners of such Bonds not later than five Business Days prior to the purchase date, which notice will state (1) that the Mode on such Bonds will continue to be a Term Mode or will be



adjusted to a different Mode on and after the purchase date; (2) that such Bonds will be subject to mandatory tender for purchase on the purchase date; (3) the procedures for such mandatory tender; (4) the purchase price of such Bonds on the purchase date (expressed as a percentage of the principal amount thereof); and (5) the consequences of a failed remarketing.

**Part 4.10 Delivery of Bonds.** Book-Entry Tenders. Notwithstanding any other provision of this Part 4.10 to the contrary, all tenders for purchase during any period in which the Bonds are registered in the name of Cede & Co. (or the nominee of any successor Securities Depository) shall be subject to the terms and conditions set forth in the Representations Letter and to any regulations promulgated by DTC (or any successor Securities Depository). For so long as the Bonds are registered in the name of Cede & Co., as nominee for DTC, the tender option rights of Holders of Bonds may be exercised only by DTC by giving notice of its election to tender Bonds or portions thereof at the times and in the manner described above. Beneficial Owners will not have any rights to tender Bonds directly to the Tender Agent. Procedures under which a Beneficial Owner may direct a Direct Participant or DTC, or an Indirect Participant of DTC acting through a Direct Participant of DTC, to exercise a tender option right in respect of Bonds or portions thereof in an amount equal to all or a portion of such Beneficial Owner's beneficial ownership interest therein shall be governed by standing instructions and customary practices determined by such Direct Participant or Indirect Participant. For so long as the Bonds are registered in the name of Cede & Co., as nominee for DTC, delivery of Bonds required to be tendered for purchase shall be effected by the transfer on the applicable Purchase Date of a book-entry credit to the account of the Tender Agent of a beneficial interest in such Bonds.

Except as otherwise required or permitted by the book-entry-only system of the Securities Depository, the Bonds of a subseries shall be delivered as follows:

(a) Bonds of a subseries sold by the Remarketing Agent pursuant to Part 4.8 shall be delivered by the Remarketing Agent to the purchasers of those Bonds by 3:30 p.m. on the Purchase Date or the Mandatory Purchase Date, as the case may be.

(b) The Tender Agent shall, as appropriate to the circumstances, either (i) register Bonds of a subseries purchased by the Tender Agent with moneys described in Part 4.9(b), or if any such Bond is not delivered by the Owner thereof, a new Bond of such subseries in replacement of the undelivered Bond, in the name of the Liquidity Facility Provider or, if directed in writing by the Liquidity Facility Provider, its nominee or

designee on the registry books on or before the close of business on the Purchase Date or Mandatory Purchase Date, as the case may be, and shall promptly deliver such Bonds to the custodian, if any, provided for in the Liquidity Facility or as the Liquidity Facility Provider may otherwise direct in writing, and prior to such delivery shall hold such Bonds of such subseries in trust for the benefit of the Liquidity Facility Provider or (ii) cause the beneficial ownership of such Bonds of such subseries to be credited to the account of the Liquidity Facility Provider or, if directed in writing by the Liquidity Facility Provider, its nominee or designee with DTC.

(c) When any Liquidity Provider Bonds of a subseries are remarketed, the Tender Agent shall not release the Bonds so remarketed to the Remarketing Agent until the Tender Agent has received and forwarded to or for the account of the Liquidity Facility Provider the proceeds of such remarketing and (i) the Liquidity Facility has been reinstated by an amount equal to the principal amount of Liquidity Provider Bonds so remarketed plus the interest component of the Available Amount calculated with respect to such principal amount of Bonds, which reinstatement the Tender Agent has confirmed by Electronic Means with the Liquidity Facility Provider, or (ii) if the Bonds of a subseries became Liquidity Provider Bonds on a Mandatory Purchase Date and a Liquidity Facility is no longer in effect with respect to Bonds of such subseries after the Mandatory Purchase Date, any draws on such Liquidity Facility and interest thereon have been reimbursed to the Liquidity Facility Provider.

**Part 4.11 Delivery and Payment for Purchased Bonds of a Subseries: Undelivered Bonds.** Except as otherwise required or permitted by the book-entry-only system of the Securities Depository, the Bonds of a subseries purchased pursuant to this Article shall be delivered (with all necessary endorsements) at or before 3:30 p.m. on the Purchase Date or Mandatory Purchase Date, as the case may be, at the office of the Tender Agent in New York, New York; provided, however, that payment of the Purchase Price of any Bond of a subseries purchased pursuant to Part 4.1 hereof shall be made only if such Bond so delivered to the Tender Agent conforms in all respects to the description thereof in the notice of tender. Payment of the Purchase Price shall be made by wire transfer in immediately available funds by the Tender Agent by the close of business on the Purchase Date or Mandatory Purchase Date, as the case may be, or, if the Owner has not provided or caused to be provided wire transfer instructions, by check mailed to the Owner at the address appearing in the books required to be kept by the Paying Agent/Registrar pursuant to the Ordinance. If Bonds of a subseries to be

purchased are not delivered by the Owners to the Tender Agent by 3:30 p.m. on the Purchase Date or the Mandatory Purchase Date, as the case may be, the Tender Agent shall hold any funds received for the purchase of those Bonds in trust in a separate account and shall pay such funds to the former Owners upon presentation of the Bonds subject to tender. Any such amounts shall be held uninvested. Such undelivered Bonds are deemed tendered and cease to accrue interest as to the former Owners on the Purchase Date or the Mandatory Purchase Date, as the case may be, and moneys representing the Purchase Price shall be available against delivery of those Bonds at the office of the Tender Agent in New York, New York; provided, however, that any funds which are so held by the Tender Agent and which remain unclaimed by the former Owner of any such Bond not presented for purchase for a period of two years after delivery of such funds to the Tender Agent, shall, to the extent permitted by law, upon request in writing by the City and the furnishing of security or indemnity to the Tender Agent's satisfaction, be paid to the City free of any trust or lien and thereafter the former Owner of such Bond shall look only to the City and then only to the extent of the amounts so received by the City without any interest thereon and the Tender Agent shall have no further responsibility with respect to such moneys or payment of the Purchase Price of such Bonds. The Tender Agent shall authenticate a replacement Bond of a subseries for any undelivered Bond of such subseries which may then be remarketed by the Remarketing Agent.

**Part 4.12    Draws on Liquidity Facility.**

(a) To the extent a Liquidity Facility is in effect with respect to the Bonds of a subseries, on each Purchase Date or Mandatory Purchase Date with respect to Bonds of such subseries, as the case may be, the Paying Agent/Registrar or the Tender Agent shall draw on the Liquidity Facility supporting the Bonds of such subseries in accordance with the terms thereof or if provided in the Liquidity Facility the Paying Agent/Registrar shall cause to have transferred the proceeds of such draw to the Tender Agent so as to have funds deposited with the Tender Agent by 2:30 p.m. on such date in an amount, in immediately available funds, sufficient, together with the proceeds of the remarketing of such Bonds on such date, to enable the Tender Agent to pay the Purchase Price in connection therewith, provided notice of such draw is delivered to the Paying Agent/Registrar in accordance with the terms of the Credit Facility Agreement. The Tender Agent shall deposit said proceeds in the related Liquidity Facility Purchase Account.

(b) Notwithstanding the foregoing provisions of this Part, the Paying Agent/Registrar shall not draw on a Liquidity Facility with respect to

the Purchase Price of Liquidity Provider Bonds or Bonds of a subseries owned by or on behalf of the City or the Liquidity Facility Provider.

## **ARTICLE V**

### **LIQUIDITY FACILITIES AND CREDIT FACILITIES**

#### **Part 5.1     Liquidity Facility and Credit Facility.**

(a) Subject to the terms of the existing Credit Facility or Liquidity Facility, as applicable, at any time the City may provide for the delivery to the Paying Agent/Registrar of (i) an initial and an Alternate Liquidity Facility with respect to the Bonds of any subseries, and/or (ii) an initial and an Alternate Credit Facility with respect to the Bonds of any subseries. The City shall not obtain a Liquidity Facility for the Bonds of a subseries or provide for the delivery of a Liquidity Facility for the Bonds of a subseries to the Paying Agent/Registrar without the prior written consent of the Credit Facility Provider for the Bonds of such subseries. Any such Liquidity Facility or Credit Facility shall provide that a Termination Date which permits the Paying Agent/Registrar to make on the Termination Tender Date a draw under the Liquidity Facility or the Credit Facility, as the case may be, shall not occur unless written notice thereof is given to the Paying Agent/Registrar and the Tender Agent at least 15 days prior to the Termination Tender Date. To the extent that any Liquidity Facility or Credit Facility permits the City thereof to assign its obligation thereunder, such Liquidity Facility or Credit Facility, as the case may be, shall provide that such assignment shall not be effective unless a written notice of such assignment is given to the Paying Agent/Registrar and the Tender Agent at least 16 days prior to the effective date of such assignment. On or prior to the date on which an Alternate Liquidity Facility, or an initial or an Alternate Credit Facility, is obtained or delivered to the Paying Agent/Registrar, the City shall furnish to the Paying Agent/Registrar a Favorable Opinion of Bond Counsel as set forth in subpart (c)(ii) herein. As provided in Part 4.5 hereof, all Outstanding Bonds of the subseries to which such Liquidity Facility or Credit Facility relates will become subject to mandatory tender for purchase on the Substitution Date.

(b) At the direction of the City, the Paying Agent/Registrar shall execute and deliver any instrument that, upon such execution and delivery by the Paying Agent/Registrar, would constitute a "Credit Facility" or "Liquidity Facility."

(c) The City shall deliver to the Paying Agent/Registrar, the Tender Agent, the Credit Facility Provider and the Remarketing Agent a copy of each Liquidity Facility or Credit Facility obtained pursuant to this article on the effective date of such Liquidity Facility or Credit Facility. If at any time there shall have been delivered to the Paying Agent/Registrar (i) an Alternate Credit Facility or Alternate Liquidity Facility in substitution for the Credit Facility or Liquidity Facility with respect to Bonds of a subseries then in effect and (ii) a Favorable Opinion of Bond Counsel, then, providing that any condition to substitution contained in the existing Credit Facility or Liquidity Facility shall have been satisfied, the Paying Agent/Registrar shall accept such Alternate Credit Facility or Alternate Liquidity Facility and, subject to subpart (d) of this Part, shall surrender the Credit Facility or Liquidity Facility then in effect to the Credit Facility Provider or Liquidity Facility Provider on the effective date of the Alternate Credit Facility or Alternate Liquidity Facility. In the event of an extension of the Expiration Date, the City shall give the Paying Agent/Registrar, the Tender Agent, the Credit Facility Provider and the Remarketing Agent a written notice of the new Expiration Date at least 16 days prior to the Expiration Tender Date. In the event of a substitution of a Liquidity Facility with an Alternate Liquidity Facility or of a Credit Facility with an Alternate Credit Facility, the City shall give the Paying Agent/Registrar, the Tender Agent and the Remarketing Agent a written notice of the Substitution Date at least 16 days prior to such Substitution Date. The City shall give the Paying Agent/Registrar, Tender Agent and the Remarketing Agent a written notice of its election to terminate the Credit Facility or the Liquidity Facility at least 16 days prior to the Termination Tender Date resulting from its election to terminate such Credit Facility or Liquidity Facility.

(d) In no event shall the Paying Agent/Registrar surrender or cancel a Liquidity Facility relating to the Bonds of any subseries unless it has received funds, either from proceeds of remarketing or a draw under such Liquidity Facility to be surrendered or cancelled, sufficient to pay the Purchase Price of such Bonds to the applicable Mandatory Purchase Date. In no event shall the Paying Agent/Registrar surrender or cancel a Credit Facility relating to the Bonds of any subseries unless it has received funds sufficient to pay the Purchase Price of such Bonds to the applicable Mandatory Purchase Date.

(e) The Paying Agent/Registrar shall not sell, assign or otherwise transfer the Credit Facility or Liquidity Facility, except to a successor

Paying Agent/Registrar hereunder and in accordance with the terms of the Credit Facility or Liquidity Facility and the Ordinance.

(f) To the extent that both the Liquidity Facility Provider for the Bonds of a subseries is not at the same time also the Credit Facility Provider with respect to such Bonds and the Credit Facility Provider is an insurance company, neither the City, nor the Paying Agent/Registrar shall consent to the substitution of a new Credit Facility Provider for the then-existing Credit Facility Provider, or the surrender, cancellation, termination, amendment or modification of the then-existing Credit Facility, without the prior written consent of the Liquidity Facility Provider.

(g) On or prior to the Substitution Date, no drawing under an Alternate Liquidity Facility shall be made by the Paying Agent/Registrar if the predecessor Liquidity Facility is effective and available to make drawings thereunder on the date of such drawing. After the Substitution Date, no drawing under a predecessor Liquidity Facility shall be made by the Paying Agent/Registrar if the Alternate Liquidity Facility is effective and available to make drawings thereunder on the date of such drawing.

(h) In connection with a mandatory tender for purchase upon substitution of an Alternate Credit Facility or Liquidity Facility pursuant to Part 4.5(iv), the City may provide that any Credit Facility or Liquidity Facility is terminated on and after such substitution, and that provided that no amounts are then owed to the Credit Facility Provider or Liquidity Facility Provider and that no Liquidity Provider Bonds are then held under the Liquidity Facility, the rights of the Liquidity Facility Provider or Credit Facility Provider under the Ordinance and with respect to the Bonds thereafter cease.

## **Part 5.2     Direct-Pay Liquidity Facility Drawing Account.**

(a) If a Direct-Pay Liquidity Facility is in effect with respect to the Bonds of any subseries, there is hereby created and established, and there shall be maintained as an Eligible Account and held for the benefit of the holders of the Bonds with the Paying Agent/Registrar for the Bonds of each subseries, a separate fund to be know as “City of Austin, Texas, Hotel Occupancy Tax Subordinate Lien Variable Rate Revenue Refunding Bonds, Series 2008 Direct-Pay Liquidity Facility Drawing Account” (the “Direct-Pay Liquidity Facility Drawing Account”).

(b) The City shall make payments of principal and redemption price of and interest on the Bonds of a subseries in accordance with the Ordinance into the Bond Fund and transfer such amounts to the respective paying agent/registrars in accordance with Part 5.05 of the Ordinance as and when the same becomes due and payable regardless of whether a Direct-Pay Liquidity Facility is in effect with respect to the Bonds of such subseries.

(c) If a Direct-Pay Liquidity Facility is in effect with respect to the Bonds of a subseries, the Paying Agent/Registrar shall take all action necessary to draw or make a claim on the related Direct-Pay Liquidity Facility in such amounts, at such times, and in such manner as is necessary to pay the principal and redemption price (including, to the extent amounts are available therefor under the Direct-Pay Liquidity Facility, from Sinking Fund Installments) of and interest on all Bonds payable therefrom as and when the same becomes due and payable. The Paying Agent/Registrar shall promptly deposit into the related Direct-Pay Liquidity Facility Drawing Account all moneys so drawn by the Paying Agent/Registrar under the related Direct-Pay Liquidity Facility, which may not be with any other moneys held by Paying Agent/Registrar and which must be applied to the payment of such principal, redemption price and interest. If such a draw is required, the provision of indemnification under the Paying Agent/Registrar Agreement may not be a condition precedent to such draw or any payment therefrom, including payment of Purchase Price. Further, if a Direct-Pay Liquidity Facility is in effect, the provision of indemnification under the Paying Agent/Registrar Agreement may not be a condition precedent to causing a mandatory tender hereunder or carrying out the provisions of this Ordinance to effectuate such mandatory tender.

(d) Subject to the immediately succeeding paragraph, on each principal installment due date or Redemption Date, as the case may be, and Interest Payment Date, the Paying Agent/Registrar shall make payments of principal or redemption price of and interest on the Bonds of a subseries for which a drawing on the Credit Facility has been made to their Owners in accordance with the Ordinance. Amounts of such drawing are not available to pay principal or the redemption price of or interest on Bonds of any subseries other than Bonds of a subseries which are supported by such Direct-Pay Liquidity Facility.

If a Direct-Pay Liquidity Facility is in effect with respect to the Bonds of any subseries, notwithstanding the immediately preceding paragraph, the Paying Agent/Registrar shall make payments of principal or redemption price of and

interest on the Bonds of such subseries to their Owners in the manner provided for in the Ordinance from the moneys deposited in the related Direct-Pay Liquidity Facility Drawing Account pursuant to subpart (c) of this Part. If sufficient funds are not available in the related Direct-Pay Liquidity Facility Drawing Account, and the Liquidity Facility Provider has failed to honor a properly presented drawing, the Paying Agent/Registrar shall promptly apply other moneys, if any, transferred by the City from the Bond Fund, including but not limited to the City's payments pursuant to subpart (b) of this Part (excluding moneys available in any other Direct-Pay Liquidity Facility Drawing Account established with respect to any other subseries of Bonds), to the extent necessary to make such payment. If the principal or redemption price of and interest on the Bonds of a subseries has been paid in full when due and all payments required to be made under the Direct-Pay Liquidity Facility have been made, the Paying Agent/Registrar shall apply remaining moneys, if any, transferred by the City from the Bond Fund, including but not limited to the City's payments pursuant to subpart (b) of this Part (excluding moneys available in any other Direct-Pay Liquidity Facility Drawing Account established with respect to any other subseries of Bonds) in an amount not to exceed the amount of the draw or borrowing under the Direct-Pay Liquidity Facility to reimburse Liquidity Facility Provider.

(e) Amounts held in each Direct-Pay Liquidity Facility Drawing Account must be held uninvested and separate and apart from all other funds and accounts. The Paying Agent/Registrar shall have no lien on amounts in the Direct-Pay Facility Drawing Account or any account of the Purchase Fund for payment of fees or other amounts owed to the Paying Agent/Registrar.

(f) Notwithstanding the foregoing provisions of this Part, the Paying Agent/Registrar shall not draw on a Direct-Pay Liquidity Facility with respect to principal of or interest on Liquidity Provider Bonds.

**Part 5.3 No Draws Under Credit Facility or Direct-Pay Liquidity Facility for City.** Unless permitted under the Credit Facility or Direct-Pay Liquidity Facility, the Paying Agent/Registrar may make no drawings under the Credit Facility or Direct-Pay Liquidity Facility for payment of regularly scheduled principal of or interest on Bonds owned by or on behalf of the City or any affiliate or agent of the City.

## ARTICLE VI

### AGENTS



**Part 6.1     Remarketing Agent.** The City shall appoint and employ the services of a Remarketing Agent while the Bonds of any subseries are in the Daily Mode, the Weekly Mode or the Commercial Paper Mode. The City shall appoint and employ the services of a Remarketing Agent prior to any Purchase Date or Mode Change Date while the Bonds of any subseries are in the Term Rate Mode or the Auction Rate Mode.

Any Remarketing Agent may at any time resign and be discharged of the duties and obligations created by the Ordinance by giving notice to the related Liquidity Facility Provider, the Paying Agent/Registrar, the City, the related Credit Facility Provider and the Tender Agent in accordance with the Remarketing Agreement. Any Remarketing Agent may be removed at any time, at the direction of the City, by an instrument filed with the Paying Agent/Registrar, the related Remarketing Agent and the related Tender Agent in accordance with the Remarketing Agreement.

Any Remarketing Agent and any successor Remarketing Agent shall be selected by the City, with the prior written consent of the Credit Facility Provider, and shall be a member of the National Association of Securities Dealers, Inc., shall have a capitalization of at least \$15,000,000, and shall be authorized by law to perform all the duties set forth in the Ordinance. The City's delivery to the Paying Agent/Registrar of a Certificate setting forth the effective date of the appointment of a Remarketing Agent and the name, address and telephone number of such Remarketing Agent is conclusive evidence that (i) such Remarketing Agent has been appointed and is qualified to act as Remarketing Agent under the terms of the Ordinance and (ii) if applicable, the predecessor Remarketing Agent has been removed in accordance with the provisions of the Ordinance.

Each Remarketing Agent shall keep such books and records as are consistent with prudent industry practice and make such books and records available for inspection by the City, the Paying Agent/Registrar, the related Credit Facility Provider and the related Liquidity Facility Provider at all reasonable times.

**Part 6.2     Tender Agent.** The City shall appoint and employ the services of the Tender Agent while the Bonds of any subseries are in the Daily Mode, the Weekly Mode or the Commercial Paper Mode. The City shall appoint and employ the services of the Tender Agent prior to any Purchase Date or Mode Change Date while the Bonds of any subseries are in the Term Rate Mode or the Auction Rate Mode.

The Tender Agent may at any time resign and be discharged of the duties and obligations created by the Ordinance by giving at least 15 days' notice to the related Liquidity Facility Provider, the Paying Agent/Registrar, the City and the related Credit Facility Provider, provided that a successor Tender Agent is appointed and acting hereunder on or prior to the effective date of such resignation or discharge, any Liquidity Facility has been transferred to such successor Tender Agent, and the City has received from such successor written notice of acceptance of the duties of Tender Agent. The Tender Agent may be removed at any time, at the direction of the City, by an instrument filed with the Paying Agent/Registrar and the related Remarketing Agent and upon at least 15 days' notice to the Tender Agent, provided that a successor Tender Agent is appointed and acting hereunder on or prior to the effective date of such removal, any Liquidity Facility has been transferred to such successor Tender Agent, and the City has received from such successor written notice of acceptance of the duties of Tender Agent, which may be in the form of a new Tender Agent Agreement.

A successor Tender Agent shall be selected by the City, with the prior written consent of any Credit Facility Provider, and shall be a bank or other financial institution that satisfies the qualifications set forth in the Ordinance for a Paying Agent/Registrar. The City's delivery to the Paying Agent/Registrar of a Certificate setting forth the effective date of the appointment of a Tender Agent and the name, address and telephone number of such Tender Agent shall be conclusive evidence that (i) such Tender Agent has been appointed and is qualified to act as Tender Agent under the terms of the Ordinance and (ii) if applicable, the predecessor Tender Agent has been removed in accordance with the provisions of the Ordinance.

The Tender Agent shall keep such books and records as are consistent with prudent industry practice and make such books and records available for inspection by the City, the Paying Agent/Registrar, the related Credit Facility Provider and the related Liquidity Facility Provider at all reasonable times.

The Tender Agent shall be a fiduciary. Unless otherwise provided, the Paying Agent/Registrar is deemed the Tender Agent for purposes of this Appendix A and Exhibit 1 hereto.

**Part 6.3 Auction Agent.** The City shall direct the Paying Agent/Registrar in writing to appoint and employ the services of an Auction Agent while the Bonds of any subseries are in the Auction Rate Mode. The Paying Agent/Registrar shall upon such direction appoint the Auction Agent. No appointment of the Auction Agent for the Bonds of a subseries is effective without

the consent of the Credit Facility Provider for the Bonds of such subseries. Such consent is deemed to have been given if such Credit Facility Provider delivers the Credit Facility on the Closing Date or Mode Change Date, as the case may be, or unreasonably withholds its consent. The Paying Agent/Registrar shall have the right to remove the Auction Agent as provided in the Auction Agreement. The Paying Agent/Registrar shall, upon a written direction of the Credit Facility Provider for the Bonds of a subseries, remove the Auction Agent for the Bonds of such subseries if the Auction Agent fails to comply with its obligations under the Auction Agreement.

**Part 6.4    Broker-Dealers.**    The City shall appoint and employ the services of one or more Broker-Dealers for the Bonds of each subseries that are in the Auction Rate Mode.

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**EXHIBIT 1**  
**TO**  
**PROVISIONS FOR MULTI-MODAL OBLIGATIONS**

**AUCTION RATE MODE PROVISIONS**

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## **AUCTION RATE MODE PROVISIONS**

### **ARTICLE I**

#### **DEFINITIONS**

**Part 1.1 Definitions.** In addition to the words and terms elsewhere defined, or whose defined meanings are incorporated by reference, in the Provisions for Multi-Modal Obligations (hereinafter referred to as “Appendix A”) to which this Exhibit 1 is appended, the following words and terms as used in this Exhibit 1 and elsewhere in Appendix A have the following meanings with respect to Bonds of a subseries in an Auction Rate Mode unless the context or use indicates another or different meaning or intent:

“Agent Member” means a member of or participant in, the Securities Depository who shall act on behalf of a Bidder.

“All Hold Rate” means, as of any Auction Date, 45% of the Index in effect on such Auction Date.

“Auction” means each periodic implementation of the Auction Procedures.

“Auction Agent” means the auctioneer appointed in accordance with Part 3.1 or 3.2 of this Exhibit 1.

“Auction Agreement” means an agreement between the City, the Auction Agent and the Paying Agent/Registrar pursuant to which the Auction Agent agrees to follow the procedures specified in this Exhibit 1, with respect to the Bonds of a subseries in an Auction Rate Mode; as such agreement may from time to time be amended or supplemented.

“Auction Date” means during any period in which the Auction Procedures are not suspended in accordance with the provisions hereof:

(a) if the Bonds of a subseries are in a daily Auction Period, each Business Day;

(b) if the Bonds of a subseries are in a Special Auction Period, the last Business Day of the Special Auction Period; and

(c) if the Bonds of a subseries are in any other Auction Period, the Business Day next preceding each Interest Payment Date for such Bonds of

a subseries (whether or not an Auction is conducted on such date); provided, however, that the last Auction Date with respect to the Bonds of any subseries in an Auction Period other than a daily Auction Period or Special Auction Period is the earlier of (i) the Business Day next preceding the Interest Payment Date next preceding the Mode Change Date for such Bonds of a subseries, and (ii) the Business Day next preceding the Interest Payment Date next preceding the Maturity Date for such Bonds; and provided, further, that if the Bonds of a subseries are in a daily Auction Period, the last Auction Date is the earlier of (x) the Business Day next preceding the Mode Change Date for such Bonds, (y) the Business Day next preceding the Maturity Date for the Bonds of a subseries.

The last Business Day of a Special Auction Period is the Auction Date for the Auction Period which begins on the next succeeding Business Day, if any, On the Business Day preceding the conversion from a daily Auction Period to another Auction Period, there shall be two Auctions, one for the last daily Auction Period and one for the first Auction Period following the conversion.

“Auction Multiple” means, as of any Auction Date, the Percentage of Index (in effect on such Auction Date) determined as set forth below, based on the Prevailing Rating and the tax status of the Bonds of such subseries in effect at the close of business on the Business Day immediately preceding such Auction Date:

<b>Prevailing Rating</b>	<b>Percentage of Index</b>
AAA/AAA/Aaa	175%
AA/AA/Aa	200%
A/A/A	250%
BBB/BBB/Baa	275%
Below BBB/BBB/Baa	400%

“Auction Period” means:

- (a) a Special Auction Period;
- (b) with respect to Bonds of a subseries in a daily Auction Period, a period beginning on each Business Day and extending to but not including the next succeeding Business Day;
- (c) with respect to Bonds of a subseries in a seven day Auction Period and with Auctions generally conducted on (i) Fridays, a period of

generally seven days beginning on a Monday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Sunday) and ending on the Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally seven days beginning on a Tuesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Monday) and ending on the Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally seven days beginning on a Wednesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally seven days beginning on a Thursday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Wednesday) and ending on the Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally seven days beginning on a Friday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(d) with respect to Bonds of a subseries in a 28-day Auction Period and with Auctions generally conducted on (i) Fridays, a period of generally 28 days beginning on a Monday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Sunday) and ending on the fourth Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally 28 days beginning on a Tuesday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Monday) and ending on the fourth Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally 28 days beginning on a Wednesday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the fourth Tuesday thereafter (unless such



Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally 28 days beginning on a Thursday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Wednesday) and ending on the fourth Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally 28 days beginning on a Friday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the fourth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(e) with respect to Bonds of a subseries in a 35-day Auction Period and with Auctions generally conducted on (i) Fridays, a period of generally 35 days beginning on a Monday (or the last day of the prior Auction Period if the prior Auction Period does not end on Sunday) and ending on the fifth Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally 35 days beginning on a Tuesday (or the last day of the prior Auction Period if the prior Auction Period does not end on Monday) and ending on the fifth Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally 35 days beginning on a Wednesday (or the last day of the prior Auction Period if the prior Auction Period does not end on Tuesday) and ending on the fifth Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally 35 days beginning on a Thursday (or the last day of the prior Auction Period if the prior Auction Period does not end on Wednesday) and ending on the fifth Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally 35 days beginning on a Friday (or the last day of the prior Auction Period if the prior Auction Period does not end on Thursday) and ending on the fifth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(f) with respect to Bonds of a subseries in a three-month Auction Period, a period of generally three months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the first day of the month that is the third calendar month following the beginning date of such Auction Period (unless such first day of the month is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day); and

(g) with respect to Bonds of a subseries in a six-month Auction Period, a period of generally six months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the next succeeding May 14 or November 14;

provided, however, that

(h) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Fridays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion;

(i) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Mondays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and

shall end on the next succeeding Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion;

(j) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Tuesdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion;

(k) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Wednesdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and

shall end on the next succeeding Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion; and

(l) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Thursdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion

provided further, however, that any Auction Period that is greater than 35 days may be extended as provided in paragraph (d) of Part 2.3 of this Exhibit 1.

“Auction Period Rate” means with respect to Bonds of each subseries, the rate of interest to be borne by the Bonds of such subseries during each Auction

Period determined in accordance with Part 2.3 of this Exhibit 1; provided, however, in no event may the Auction Rate exceed the Maximum Rate.

“Auction Procedures” means the procedures for conducting Auctions for Bonds of a subseries in an Auction Rate Mode set forth in this Exhibit 1.

“Auction Rate” (a) as used in the Bonds of a subseries, means (i) the per annum interest rate approved and certified by the City to the Paying Agent/Registrar on or prior to the Mode Change Date for such series for the initial Auction Period therefor, and (ii) the Auction Period Rate for the Bonds of a subseries for each subsequent Auction Period, and (b) as used in the Ordinance, means for each series of Bonds for each Auction Period, (i) if Sufficient Clearing Bids exist, the Winning Bid Rate, provided, however, if all of such Bonds of a subseries are the subject of Submitted Hold Orders, the All Hold Rate with respect to such Bonds and (ii) if Sufficient Clearing Bids do not exist, the Maximum Auction Rate with respect to such Bonds.

“Available Bonds” means for each series of Bonds on each Auction Date, the aggregate principal amount of such Bonds that are not the subject of Submitted Hold Orders.

“Bid” has the meaning specified in subpart (a) of Part 2.1 of this Exhibit 1.

“Bidder” means each Existing Owner and Potential Owner who places an Order.

“Broker-Dealer” means any entity that is permitted by law to perform the function required of a Broker-Dealer described in this Exhibit 1 that is a member of, or a direct participant in, the Securities Depository, that has been selected by the City, and that is a party to a Broker-Dealer Agreement with the Auction Agent.

“Broker-Dealer Agreement” means an agreement among the Auction Agent, the City and a Broker-Dealer pursuant to which such Broker-Dealer agrees to follow the procedures described in this Exhibit 1; as such agreement may from time to time be amended or supplemented.

“Default Rate” means, in the case of Bonds of a subseries in any Auction Period other than a daily Auction Period, a per annum rate equal to four hundred percent (400%) of the Index determined on the Auction Date next preceding the first day of such Auction Period or in the case of Bonds of a subseries in a daily Auction Period, a per annum rate equal to four hundred percent (400%) of the

Index determined on the Auction Date which was the first day of such Auction Period, provided, however, the Default Rate shall not exceed the Maximum Rate.

“Existing Owner” means for purposes of conducting auctions by the Auction Agent the Broker-Dealers acting on behalf of each owner of any beneficial interest in any Bonds of a subseries in the records of the Auction Agent.

“Hold Order” has the meaning specified in subpart (a) of Part 2.1 of this Exhibit 1.

“Index” shall have the meaning specified in Part 2.6 of this Exhibit 1.

“Interest Payment Date” means:

(a) when used with respect to any Auction Period (including the initial Auction Period commencing on and including the Closing Date or the Mode Change Date, as the case may be, and expiring on and including the initial Auction Date specified in the Officers’ Pricing Certificate or determined and certified by the City to the Paying Agent/Registrar on or prior to the Mode Change Date, other than a daily Auction Period or a Special Auction Period, the Business Day immediately following such Auction Period; and

(b) when used with respect to a daily Auction Period, the first Business Day of the month immediately succeeding such Auction Period; and

(c) when used with respect to a Special Auction Period of (i) more than seven but fewer than 92 days, the Business Day immediately following such Special Auction Period, or (ii) 92 or more days, (A) in the case of Bonds of a subseries with Auctions generally conducted on Fridays, each thirteenth Monday after the first day of such Special Auction Period or the next Business Day if such Monday is not a Business Day and on the Business Day immediately following such Special Auction Period, (B) in the case of Bonds of a subseries with Auctions generally conducted on Mondays, each thirteenth Tuesday after the first day of such Special Auction Period or the next Business Day if such Tuesday is not a Business Day and on the Business Day immediately following such Special Auction Period, (C) in the case of Bonds of a subseries with Auctions generally conducted on Tuesdays, each thirteenth Wednesday after the first day of such Special Auction Period or the next Business Day if such Wednesday is not a Business Day and on the Business Day immediately following such Special

Auction Period, (D) in the case of Bonds of a subseries with Auctions conducted on Wednesdays, each thirteenth Thursday after the first day of such Special Auction Period or the next Business Day if such Thursday is not a Business Day and on the Business Day immediately following such Special Auction Period and (E) in the case of Bonds of a subseries with Auctions generally conducted on Thursdays, each thirteenth Friday after the first day of such Special Auction Period or the next Business Day if such Friday is not a Business Day and on the Business Day immediately following such Special Auction Period.

“Maximum Auction Rate” means as of any Auction Date, the product of the Index multiplied by the Auction Multiple; provided, however, that in no event shall the Maximum Auction Rate exceed the Maximum Rate, anything herein to the contrary notwithstanding.

“Order” means a Hold Order, Bid or Sell Order.

“Potential Owner” means any Person, including any Existing Owner, who may be interested in acquiring a beneficial interest in the Bonds of a subseries in addition to the Bonds currently owned by such Person, if any.

“Prevailing Rating” means (a) AAA/AAA/Aaa, if the Bonds of a subseries shall have a rating of AAA or better by Standard & Poor’s and Fitch and a rating of Aaa or better by Moody’s, (b) if not AAA/AAA/Aaa, AA/AA/Aa if the Bonds of a subseries shall have a rating of AA- or better by Standard & Poor’s and Fitch and a rating of Aa3 or better by Moody’s, (c) if not AAA/AAA/Aaa or AA/AA/Aa, A/A/A if the Bonds of a subseries shall have a rating of A- or better by Standard & Poor’s and Fitch and a rating of A3 or better by Moody’s, (d) if not AAA/AAA/Aaa, AA/AA/Aa or A/A/A, BBB/BBB/Baa if the Bonds of a subseries shall have a rating of BBB- or better by Standard & Poor’s and Fitch and a rating of Baa3 or better by Moody’s, and (e) if not AAA/AAA/Aaa, AA/AA/Aa, A/A/A or BBB/BBB/Baa, then below BBB/BBB/Baa, whether or not the Bonds of a subseries are rated by any Rating Agency. For purposes of this definition, Standard & Poor’s’s and Fitch’s rating categories of “AAA,” “AA-,” “A-” and “BBB-” and Moody’s rating categories of “Aaa,” “Aa3,” “A3” and “Baa3” shall be deemed to refer to and include the respective rating categories correlative thereto in the event that any such Rating Agencies shall have changed or modified their generic rating categories or if any successor thereto appointed in accordance with the definitions thereof shall use different rating categories. If the Bonds of subseries are not rated by a Rating Agency, the requirement of a rating by such Rating Agency shall be disregarded. If the ratings for the Bonds of a subseries are split between the

foregoing categories, the lowest rating shall determine the Prevailing Rating. If there is no rating, then the Auction Period Rate shall be the Maximum Auction Rate.

“Principal Office” means, with respect to the Auction Agent, the office thereof designated in the Auction Agreement as the office of the Auction Agent to which notices, requests or communications should be sent.

“Securities Depository” means The Depository Trust Company and its successors and assigns or any other securities depository selected by the City which agrees to follow the procedures required to be followed by such securities depository in connection with the Bonds of a subseries.

“Sell Order” has the meaning specified in subpart (a) of Part 2.1 of this Exhibit I.

“Special Auction Period” means any period of more than seven but less than 1,092 days which is not another Auction Period and which begins on an Interest Payment Date and ends (i) in the case of Bonds of a subseries with Auctions generally conducted on Fridays, on a Sunday unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (ii) in the case of Bonds of a subseries with Auctions generally conducted on Mondays, on a Monday unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (iii) in the case of Bonds of a subseries with Auctions generally conducted on Tuesdays, on a Tuesday unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (iv) in the case of Bonds of a subseries with Auctions generally conducted on Wednesdays, on a Wednesday unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, and (v) in the case of Bonds of a subseries with Auctions generally conducted on Thursdays, on a Thursday unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day.

“Submission Deadline” means 1:00 p.m. on each Auction Date for Bonds of a subseries not in a daily Auction Period and 11:00 a.m. on each Auction Date for Bonds of a subseries in a daily Auction Period, or such other time on such date as shall be specified from time to time by the Auction Agent pursuant to the Auction Agreement as the time by which Broker-Dealers are required to submit Orders to the Auction Agent.



“Submitted Bid” has the meaning specified in subpart (b) of Part 2.3 of this Exhibit 1.

“Submitted Hold Order” has the meaning specified in subpart (b) of Part 2.3 of this Exhibit 1.

“Submitted Order” has the meaning specified in subpart (b) of Part 2.3 of this Exhibit 1.

“Submitted Sell Order” has the meaning specified in subpart (b) of Part 2.3 of this Exhibit 1.

“Sufficient Clearing Bids” means with respect to Bonds of a subseries, an Auction for which the aggregate principal amount of Bonds of such subseries that are the subject of Submitted Bids by Potential Owners specifying one or more rates not higher than the Maximum Auction Rate is not less than the aggregate principal amount of Bonds of such subseries that are the subject of Submitted Sell Orders and of Submitted Bids by Existing Owners specifying rates higher than the Maximum Auction Rate.

“Winning Bid Rate” means with respect to Bonds of a subseries the lowest rate specified in any Submitted Bid for such subseries which if selected by the Auction Agent as the Auction Period Rate would cause the aggregate principal amount of Bonds of such subseries that are the subject of Submitted Bids specifying a rate not greater than such rate to be not less than the aggregate principal amount of Available Bonds of such series.

**Part 1.2     Rules of Construction.**

(a) This Exhibit 1 constitutes an integral part of the Appendix A and, except to the extent provided in the next sentence, has the same force and effect as if set forth in Appendix A. In the event of any conflict between this Exhibit 1 and Appendix A, Appendix A shall control.

(b) References in this Exhibit 1 to Articles or Parts are to such Article or Part of this Exhibit 1.

## ARTICLE II

### AUCTION PROCEDURES

#### **Part 2.1    Orders by Existing Owners and Potential Owners.**

(a) Prior to the Submission Deadline on each Auction Date:

(1) each Existing Owner may submit to a Broker-Dealer, in writing or by such other method as shall be reasonably acceptable to such Broker-Dealer, information as to:

(A) the principal amount of Bonds of a subseries, if any, held by such Existing Owner which such Existing Owner irrevocably commits to continue to hold for the next succeeding Auction Period without regard to the rate determined by the Auction Procedures for such Auction Period,

(B) the principal amount of Bonds of a subseries, if any, held by such Existing Owner which such Existing Owner irrevocably commits to continue to hold for the next succeeding Auction Period if the rate determined by the Auction Procedures for such Auction Period shall not be less than the rate per annum then specified by such Existing Owner (and which such Existing Owner irrevocably offers to sell on the next succeeding Interest Payment Date (or the same day in the case of a daily Auction Period) if the rate determined by the Auction Procedures for the next succeeding Auction Period shall be less than the rate per annum then specified by such Existing Owner), and/or

(C) the principal amount of Bonds of a subseries, if any, held by such Existing Owner which such Existing Owner irrevocably offers to sell on the next succeeding Interest Payment Date (or on the same day in the case of a daily Auction Period) without regard to the rate determined by the Auction Procedures for the next succeeding Auction Period; and

(2) for the purpose of implementing the Auctions and thereby to achieve the lowest possible interest rate on the Bonds of a subseries, the Broker- Dealers shall contact Potential Owners,

including Persons that are Existing Owners, to determine the principal amount of Bonds of a subseries, if any, which each such Potential Owner irrevocably offers to purchase if the rate determined by the Auction Procedures for the next succeeding Auction Period is not less than the rate per annum then specified by such Potential Owner.

For the purposes hereof, an Order containing the information referred to in clause (1)(A) above is herein referred to as a "Hold Order", an Order containing the information referred to in clause (1)(B) or (2) above is herein referred to as a "Bid", and an Order containing the information referred to in clause (1)(C) above is herein referred to as a "Sell Order."

(b) (1) A Bid by an Existing Owner shall constitute an irrevocable offer to sell:

(A) the principal amount of Bonds of a subseries specified in such Bid if the rate determined by the Auction Procedures on such Auction Date shall be less than the rate specified therein;

(B) or such principal amount or a lesser principal amount of Bonds of a subseries to be determined as described in subpart (a)(v) of Part 2.4 hereof if the rate determined by the Auction Procedures on such Auction Date shall be equal to such specified rate; or

(C) a lesser principal amount of Bonds of a subseries to be determined as described in subpart (b)(iv) of Part 2.4 hereof if such specified rate shall be higher than the Maximum Auction Rate and Sufficient Clearing Bids do not exist.

(2) A Sell Order by an Existing Owner shall constitute an irrevocable offer to sell:

(A) the principal amount of Bonds of a subseries specified in such Sell Order; or

(B) such principal amount or a lesser principal amount of Bonds of a subseries as described in subpart (b)(iv) of Part 2.4 hereof if Sufficient Clearing Bids do not exist.

(3) A Bid by a Potential Owner shall constitute an irrevocable offer to purchase:

(A) the principal amount of Bonds of a subseries specified in such Bid if the rate determined by the Auction Procedures on such Auction Date shall be higher than the rate specified therein; or

(B) such principal amount or a lesser principal amount of Bonds of a subseries as described in subpart (a)(vi) of Part 2.4 hereof if the rate determined by the Auction Procedures on such Auction Date shall be equal to such specified rate.

(c) Anything herein to the contrary notwithstanding:

(1) for purposes of any Auction, any Order which specifies Bonds of a subseries to be held, purchased or sold in a principal amount which is not equal to the Authorized Denomination for Bonds of such subseries or an integral multiple thereof shall be rounded down to the nearest amount that is equal to the Authorized Denomination for Bonds of such subseries, and the Auction Agent shall conduct the Auction Procedures as if such Order had been submitted in such lower amount;

(2) for purposes of any Auction other than during a daily Auction Period, any portion of an Order of an Existing Owner which relates to a Bond of a subseries which has been called for redemption on or prior to the Interest Payment Date next succeeding such Auction shall be invalid with respect to such portion and the Auction Agent shall conduct the Auction Procedures as if such portion of such Order had not been submitted;

(3) for purposes of any Auction other than during a daily Auction Period, no portion of a Bond of a subseries which has been called for redemption on or prior to the Interest Payment Date next succeeding such Auction shall be included in the calculation of Available Bonds for such Auction; and

(4) the Auction Procedures shall be suspended with respect to the Bonds of a subseries during the period commencing on the date of the Auction Agent's receipt of notice from the Paying Agent/Registrar of the occurrence of a default of the City in the

payment of principal, Sinking Fund Installment, interest or premium on any Bond of such subseries in the Auction Rate Mode after the same shall have become due, whether at maturity, upon call for redemption or on an Interest Payment Date (provided however that for purposes of this provision only payment by the Credit Facility Provider shall be deemed to cure such default and no such suspension of the Auction Procedures shall occur) but shall resume two Business Days after the date on which the Auction Agent receives notice from the Paying Agent/Registrar that such default has been waived or cured, with the next Auction to occur on the next regularly scheduled Auction Date occurring thereafter.

**Part 2.2      Submission of Orders by Broker-Dealers to Auction Agent.**

(a) Each Broker-Dealer shall submit to the Auction Agent in writing or by such other method as shall be reasonably acceptable to the Auction Agent, including such electronic communication acceptable to the parties, prior to the Submission Deadline on each Auction Date, all Orders obtained by such Broker-Dealer and, if requested, specifying with respect to each Order:

- (1) the name of the Bidder placing such Order;
- (2) the aggregate principal amount of Bonds of each subseries, if any, that are the subject of such Order;
- (3) to the extent that such Bidder is an Existing Owner:
  - (A) the principal amount of Bonds of each subseries, if any, subject to any Hold Order placed by such Existing Owner;
  - (B) the principal amount of Bonds of each subseries, if any, subject to any Bid placed by such Existing Owner and the rate specified in such Bid; and
  - (C) the principal amount of Bonds of each subseries, if any, subject to any Sell Order placed by such Existing Owner;
- (4) to the extent such Bidder is a Potential Owner, the rate specified in such Bid.

(b) If any rate specified in any Bid contains more than three figures to the right of the decimal point, the Auction Agent shall round such rate up to the next highest one thousandth of one percent (0.001%).

(c) If an Order or Orders covering all of the Bonds of a particular subseries held by an Existing Owner is not submitted to the Auction Agent prior to the Submission Deadline, the Auction Agent shall deem a Hold Order to have been submitted on behalf of such Existing Owner covering the principal amount of Bonds of such subseries held by such Existing Owner and not subject to Orders submitted to the Auction Agent; provided, however, that if there is a conversion from one Auction Period to another Auction Period or an amendment or modification to the Ordinance in accordance with Part 2.7(b) of this Exhibit 1 and Orders have not been submitted to the Auction Agent prior to the Submission Deadline covering the aggregate principal amount of Bonds of the subseries to be converted held by such Existing Owner, the Auction Agent shall deem a Sell Order to have been submitted on behalf of such Existing Owner covering the principal amount of Bonds of such subseries to be converted held by such Existing Owner not subject to Orders submitted to the Auction Agent.

(d) If one or more Orders covering in the aggregate more than the principal amount of Outstanding Bonds of a subseries held by any Existing Owner are submitted to the Auction Agent, such Orders shall be considered valid as follows:

(1) all Hold Orders shall be considered Hold Orders, but only up to and including in the aggregate the principal amount of Bonds of such subseries held by such Existing Owner;

(2) (A) any Bid of an Existing Owner shall be considered valid as a Bid of an Existing Owner up to and including the excess of the principal amount of Bonds of such subseries held by such Existing Owner over the principal amount of the Bonds of such subseries subject to Hold Orders referred to in paragraph (1) above;

(B) subject to clause (2)(A) above, all Bids of an Existing Owner with the same rate shall be aggregated and considered a single Bid of an Existing Owner up to and including the excess of the principal amount of Bonds of such subseries held by such Existing Owner over the principal amount of Bonds of such subseries held by such Existing

Owner subject to Hold Orders referred to in paragraph (1) above;

(C) subject to clause (2)(A) above, if more than one Bid with different rates is submitted on behalf of such Existing Owner, such Bids shall be considered Bids of an Existing Owner in the ascending order of their respective rates up to the amount of the excess of the principal amount of Bonds of such subseries held by such Existing Owner over the principal amount of Bonds of such subseries held by such Existing Owner subject to Hold Orders referred to in paragraph (1) above;

(D) and the principal amount, if any, of such Bonds of such subseries subject to Bids not considered to be Bids of an Existing Owner under this paragraph (2) shall be treated as the subject of a Bid by a Potential Owner;

(3) all Sell Orders shall be considered Sell Orders, but only up to and including a principal amount of Bonds of such subseries equal to the excess of the principal amount of Bonds of such subseries held by such Existing Owner over the sum of the principal amount of the Bonds considered to be subject to Hold Orders pursuant to paragraph (1) above and the principal amount of Bonds of such subseries considered to be subject to Bids of such Existing Owner pursuant to paragraph (2) above.

(e) If more than one Bid is submitted on behalf of any Potential Owner, each Bid submitted with the same rate shall be aggregated and considered a single Bid and each Bid submitted with a different rate shall be considered a separate Bid with the rate and the principal amount of Bonds of such subseries specified therein.

(f) Neither the City, the Paying Agent/Registrar nor the Auction Agent shall be responsible for the failure of any Broker-Dealer to submit an Order to the Auction Agent on behalf of any Existing Owner or Potential Owner.

### **Part 2.3     Determination of Auction Period Rate.**

(a) Not later than 9:30 a.m. on each Auction Date for Bonds of each subseries in an Auction Rate Mode, the Auction Agent shall advise the

Broker-Dealers and the Paying Agent/Registrar by telephone or other electronic communication acceptable to the parties of the All Hold Rate, the Maximum Auction Rate and the Index for the Bonds of such subseries.

(b) Promptly after the Submission Deadline on each Auction Date for Bonds of each subseries in an Auction Rate Mode, the Auction Agent shall assemble all Orders submitted or deemed submitted to it by the Broker-Dealers (each such Order as submitted or deemed submitted by a Broker-Dealer being hereinafter referred to as a "Submitted Hold Order," a "Submitted Bid" or a "Submitted Sell Order," as the case may be, and collectively as a "Submitted Order") and shall determine (i) the Available Bonds, (ii) whether there are Sufficient Clearing Bids, and (iii) the Auction Rate.

(c) Promptly after the Auction Agent has made the determinations pursuant to subpart (b) above, the Auction Agent shall advise the Paying Agent/Registrar by telephone (promptly confirmed in writing), telex or facsimile transmission or other electronic communication acceptable to the parties of the Auction Rate for the next succeeding Auction Period and the Paying Agent/Registrar shall promptly notify the Securities Depository of such Auction Rate.

(d) In the event the Auction Agent fails to calculate or, for any reason, fails to timely provide the Auction Rate for any Auction Period, (i) if the preceding Auction Period was a period of 35 days or less, the new Auction Period shall be the same as the preceding Auction Period and the Auction Period Rate for the new Auction Period shall be the same as the Auction Period Rate for the preceding Auction Period, and (ii) if the preceding Auction Period was a period of greater than 35 days, the preceding Auction Period shall be extended to the seventh day following the day that would have been the last day of such Auction Period had it not been extended (or if such seventh day is not followed by a Business Day then to the next succeeding day which is followed by a Business Day) and the Auction Period Rate in effect for the preceding Auction Period will continue in effect for the Auction Period as so extended. In the event an Auction Period is extended as set forth in clause (ii) of the preceding sentence, an Auction shall be held on the last Business Day of the Auction Period as so extended to take effect for an Auction Period beginning on the Business Day immediately following the last day of the Auction Period as extended which Auction Period will end on the date it would otherwise have ended on had the prior Auction Period not been extended.



(e) In the event that the Auction Procedures are suspended pursuant to paragraph (4) of subpart (c) of Part 2.1 of this Exhibit 1 with respect to any Bond of subseries, the Auction Period Rate for the next succeeding Auction Period shall be the Default Rate.

(f) In the event that all of the conditions for a change in the Mode applicable to the Bonds of a subseries from an Auction Mode to any other Mode pursuant to Part 2.8 of Appendix A have not been met, or in the event of a failure to change the length of the current Auction Period due to the lack of Sufficient Clearing Bids at the Auction on the Auction Date for the first new Auction Period, the Auction Period Rate for the next Auction Period shall be the Maximum Auction Rate and the Auction Period shall be a seven-day Auction Period.

(g) If the Bonds of a subseries are not rated or if the Bonds of a subseries are no longer maintained in book-entry form by the Securities Depository, then the Auction Period Rate shall be the Maximum Auction Rate.

(h) If the Auction Period Rate for the Bonds of a subseries is equal to the Maximum Auction Rate or the Default Rate for the longer of (i) two consecutive Auction Dates or (ii) ninety (90) days, the Credit Facility Provider for the Bonds of such subseries shall have the right to direct the City to change the Mode applicable to the Bonds of such subseries to the Fixed Rate Mode and upon such direction the City shall change such Mode to a Fixed Rate Mode in accordance with Part 2.8 of Appendix A.

**Part 2.4     Allocation of Bonds of a subseries.**

(a) In the event of Sufficient Clearing Bids for Bonds of a subseries, subject to the further provisions of subparts (c) and (d) below, Submitted Orders for such subseries shall be accepted or rejected as follows in the following order of priority:

(1) the Submitted Hold Order of each Existing Owner shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Hold Order;

(2) the Submitted Sell Order of each Existing Owner shall be accepted and the Submitted Bid of each Existing Owner specifying any rate that is higher than the Winning Bid Rate shall be rejected,

thus requiring each such Existing Owner to sell the Bonds of a subseries that are the subject of such Submitted Sell Order or Submitted Bid;

(3) the Submitted Bid of each Existing Owner specifying any rate that is lower than the Winning Bid Rate shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Bid;

(4) the Submitted Bid of each Potential Owner specifying any rate that is lower than the Winning Bid Rate shall be accepted, thus requiring each such Potential Owner to purchase the Bonds of a subseries that are the subject of such Submitted Bid;

(5) the Submitted Bid of each Existing Owner specifying a rate that is equal to the Winning Bid Rate shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Bid, but only up to and including the principal amount of Bonds of a subseries obtained by multiplying (A) the aggregate principal amount of Outstanding Bonds of a subseries which are not the subject of Submitted Hold Orders described in paragraph (1) above or of Submitted Bids described in paragraphs (3) or (4) above by (B) a fraction the numerator of which shall be the principal amount of Outstanding Bonds of a subseries held by such Existing Owner subject to such Submitted Bid and the denominator of which shall be the aggregate principal amount of Outstanding Bonds of a subseries subject to such Submitted Bids made by all such Existing Owners that specified a rate equal to the Winning Bid Rate, and the remainder, if any, of such Submitted Bid shall be rejected, thus requiring each such Existing Owner to sell any excess amount of Bonds of a subseries;

(6) the Submitted Bid of each Potential Owner specifying a rate that is equal to the Winning Bid Rate shall be accepted, thus requiring each such Potential Owner to purchase the Bonds of a subseries that are the subject of such Submitted Bid, but only in an amount equal to the principal amount of Bonds of a subseries obtained by multiplying (A) the aggregate principal amount of Outstanding Bonds of a subseries which are not the subject of Submitted Hold Orders described in paragraph (1) above or of Submitted Bids described in paragraphs (iii), (iv) or (v) above by (B) a fraction the

numerator of which shall be the principal amount of Outstanding Bonds of a subseries subject to such Submitted Bid and the denominator of which shall be the sum of the aggregate principal amount of Outstanding Bonds of a subseries subject to such Submitted Bids made by all such Potential Owners that specified a rate equal to the Winning Bid Rate, and the remainder of such Submitted Bid shall be rejected; and

(7) the Submitted Bid of each Potential Owner specifying any rate that is higher than the Winning Bid Rate shall be rejected.

(b) In the event there are not Sufficient Clearing Bids for Bonds of a subseries, subject to the further provisions of subparts (c) and (d) below, Submitted Orders, for each Bonds of a subseries shall be accepted or rejected as follows in the following order of priority:

(1) the Submitted Hold Order of each Existing Owner shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Hold Order;

(2) the Submitted Bid of each Existing Owner specifying any rate that is not higher than the Maximum Auction Rate with respect to Bonds of a subseries, shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Bid;

(3) the Submitted Bid of each Potential Owner specifying any rate that is not higher than the Maximum Auction Rate with respect to Bonds of a subseries, shall be accepted, thus requiring each such Potential Owner to purchase the Bonds of a subseries that are the subject of such Submitted Bid;

(4) the Submitted Sell Orders of each Existing Owner shall be accepted as Submitted Sell Orders and the Submitted Bids of each Existing Owner specifying any rate that is higher than the Maximum Auction Rate with respect to Bonds of a subseries, shall be deemed to be and shall be accepted as Submitted Sell Orders, in both cases only up to and including the principal amount of Bonds of a subseries obtained by multiplying (A) the aggregate principal amount of Bonds of a subseries subject to Submitted Bids described in paragraph (3) of

this subpart (b) by (B) a fraction the numerator of which shall be the principal amount of Outstanding Bonds of a subseries held by such Existing Owner subject to such Submitted Sell Order or such Submitted Bid deemed to be a Submitted Sell Order and the denominator of which shall be the principal amount of Outstanding Bonds of a subseries subject to all such Submitted Sell Orders and such Submitted Bids deemed to be Submitted Sell Orders, and the remainder of each such Submitted Sell Order or Submitted Bid shall be deemed to be and shall be accepted as a Hold Order and each such Existing Owner shall be required to continue to hold such excess amount of Bonds of a subseries; and

(5) the Submitted Bid of each Potential Owner specifying any rate that is higher than the Maximum Auction Rate with respect to the Bonds of a subseries shall be rejected.

(c) If, as a result of the procedures described in subpart (a) or (b) above, any Existing Owner or Potential Owner would be required to purchase or sell an aggregate principal amount of Bonds of a subseries which is not an integral multiple of the Authorized Denomination for Bonds of such subseries on any Auction Date, the Auction Agent shall by lot, in such manner as it shall determine in its sole discretion, round up or down the principal amount of Bonds of a subseries to be purchased or sold by any Existing Owner or Potential Owner on such Auction Date so that the aggregate principal amount of Bonds of a subseries purchased or sold by each Existing Owner or Potential Owner on such Auction Date shall be an integral multiple of the Authorized Denomination for Bonds of such subseries, even if such allocation results in one or more of such Existing Owners or Potential Owners not purchasing or selling any Bonds of a subseries on such Auction Date.

(d) If, as a result of the procedures described in subpart (a) above, any Potential Owner would be required to purchase a principal amount of Bonds of a subseries that is less than the Authorized Denomination for Bonds of such subseries on any Auction Date, the Auction Agent shall by lot, in such manner as it shall determine in its sole discretion, allocate such Bonds for purchase among Potential Owners so that the principal amount of Bonds of a subseries purchased on such Auction Date by any Potential Owner shall be an integral multiple of the Authorized Denomination for Bonds of such subseries, even if such allocation results in one or more of such Potential Owners not purchasing such Bonds on such Auction Date.

**Part 2.5     Notice of Auction Period Rate.**

(a) On each Auction Date, the Auction Agent shall notify by telephone or other telecommunication device or other electronic communication acceptable to the parties or in writing each Broker-Dealer that participated in the Auction held on such Auction Date of the following with respect to Bonds of each subseries for which an Auction was held on such Auction Date:

(1) the Auction Period Rate determined on such Auction Date for the succeeding Auction Period;

(2) whether Sufficient Clearing Bids existed for the determination of the Winning Bid Rate;

(3) if such Broker-Dealer submitted a Bid or a Sell Order on behalf of an Existing Owner, whether such Bid or Sell Order was accepted or rejected and the principal amount of Bonds of a subseries, if any, to be sold by such Existing Owner;

(4) if such Broker-Dealer submitted a Bid on behalf of a Potential Owner, whether such Bid was accepted or rejected and the principal amount of Bonds of a subseries, if any, to be purchased by such Potential Owner;

(5) if the aggregate principal amount of the Bonds of a subseries to be sold by all Existing Owners on whose behalf such Broker-Dealer submitted Bids or Sell Orders is different from the aggregate principal amount of Bonds of a subseries to be purchased by all Potential Owners on whose behalf such Broker-Dealer submitted a Bid, the name or names of one or more Broker-Dealers (and the Agent Member, if any, of each such other Broker Dealer) and the principal amount of Bonds of a subseries to be (A) purchased from one or more Existing Owners on whose behalf such other Broker-Dealers submitted Bids or Sell Orders or (B) sold to one or more Potential Owners on whose behalf such Broker-Dealer submitted Bids; and

(6) the immediately succeeding Auction Date.

(b) On each Auction Date, with respect to Bonds of each subseries for which an Auction was held on such Auction Date, each Broker-Dealer

that submitted an Order on behalf of any Existing Owner or Potential Owner shall: (i) advise each Existing Owner and Potential Owner on whose behalf such Broker-Dealer submitted an Order as to (A) the Auction Period Rate determined on such Auction Date, (B) whether any Bid or Sell Order submitted on behalf of each such Owner was accepted or rejected and (C) the immediately succeeding Auction Date; (ii) instruct each Potential Owner on whose behalf such Broker-Dealer submitted a Bid that was accepted, in whole or in part, to instruct such Existing Owner's Agent Member to pay to such Broker-Dealer (or its Agent Member) through the Securities Depository the amount necessary to purchase the principal amount of such Bonds of a subseries to be purchased pursuant to such Bid (including, with respect to such Bonds of a subseries in a daily Auction Period, accrued interest if the purchase date is not an Interest Payment Date for such Bond) against receipt of such Bonds of a subseries; and (iii) instruct each Existing Owner on whose behalf such Broker-Dealer submitted a Sell Order that was accepted or a Bid that was rejected, in whole or in part, to instruct such Existing Owner's Agent Member to deliver to such Broker-Dealer (or its Agent Member) through the Securities Depository the principal amount of such Bonds of a subseries to be sold pursuant to such Bid or Sell Order against payment therefor.

## **Part 2.6     Index.**

(a) The Index on any Auction Date with respect to Bonds of a subseries in any Auction Period of 35 days or less shall be the One Month LIBOR Rate on such date. The Index with respect to Bonds of subseries in any Auction Period greater than 35 days shall be the rate on United States Treasury Securities having a maturity which most closely approximates the length of the Auction Period, as last published in The Bond Buyer. If either rate is unavailable, the Index for the Bonds of a subseries shall be an index or rate agreed to by all Broker-Dealers and consented to by the City.

"One Month LIBOR Rate" means, as of any date of determination, the offered rate for deposits in U.S. dollars for a one-month period which appears on the Telerate Page 3750 at approximately 11:00 a.m., London time, on such date, or if such date is not a date on which dealings in U.S. dollars are transacted in the London interbank market, then on the next preceding day on which such dealings were transacted in such market.

(b) If for any reason on any Auction Date the Index shall not be determined as hereinabove provided in this Part, the Index shall be the Index for the Auction Period ending on such Auction Date.

(c) The determination of the Index as provided herein shall be conclusive and binding upon the City, the Paying Agent/Registrar, the Broker-Dealers, the Auction Agent and the Owners of the Bonds of a subseries.

**Part 2.7 Miscellaneous Provisions Regarding Auctions.**

(a) In this Exhibit 1, each reference to the purchase, sale or holding of "Bonds" shall refer to beneficial interests in such Bonds, unless the context clearly requires otherwise.

(b) During an Auction Rate Mode, with respect to the Bonds of a subseries, the provisions of the Ordinance, including Appendix A, this Exhibit 1 and the definitions contained in this Exhibit 1, including, without limitation, the definitions of Maximum Rate, Maximum Auction Rate, All Hold Rate, Index, Default Rate, Auction Multiple and the Auction Period Rate, may be modified or amended, with the consent of the Credit Facility Provider for the Bonds of such subseries, pursuant to the Ordinance by obtaining, when required by the Ordinance, the consent of the owners of all Outstanding Bonds of such subseries as follows; provided, however, that no such modification or amendment that adversely affect the rights, duties or obligations of the Auction Agent shall be made without the consent of the Auction Agent. If on the first Auction Date occurring at least 20 days after the date on which the Paying Agent/Registrar mailed notice of such proposed modification or amendment to the registered owners of the Outstanding Bonds of a subseries as required by the Ordinance, (i) the Auction Period Rate which is determined on such date is the Winning Bid Rate and (ii) there is delivered to the City and the Paying Agent/Registrar a Favorable Opinion of Bond Counsel, the proposed modification or amendment shall be deemed to have been consented to by the owners of all affected Outstanding Bonds of such subseries.

(c) If the Securities Depository notifies the City that it is unwilling or unable to continue as Owner of the Bonds of a subseries or if at any time the Securities Depository shall no longer be registered or in good standing under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation and a successor to the Securities Depository is not

appointed by the City within 90 days after the City receives notice or becomes aware of such condition, as the case may be, the City shall execute and the Paying Agent/Registrar shall authenticate and deliver certificates representing the Bonds of such subseries. Such Bonds shall be authorized in such names and authorized denominations as the Securities Depository, pursuant to instructions from the Agent Members or otherwise, shall instruct the City and the Paying Agent/Registrar.

(d) During an Auction Rate Mode, so long as the ownership of the Bonds of a subseries is maintained in book-entry form by the Securities Depository, an Existing Owner or a beneficial owner may sell, transfer or otherwise dispose of a Bond only pursuant to a Bid or Sell Order in accordance with the Auction Procedures or to or through a Broker-Dealer, provided that (i) in the case of all transfers other than pursuant to Auctions such Existing Owner or its Broker-Dealer or its Agent Member advises the Auction Agent of such transfer and (ii) a sale, transfer or other disposition of Bonds of a subseries from a customer of a Broker-Dealer who is listed on the records of that Broker-Dealer as the holder of such Bonds to that Broker-Dealer or another customer of that Broker-Dealer shall not be deemed to be a sale, transfer or other disposition for purposes of this paragraph if such Broker-Dealer remains the Existing Owner of Bonds of a subseries so sold, transferred or disposed of immediately after such sale, transfer or disposition.

## **Part 2.8      Changes in Auction Period or Auction Date.**

### **(a)      Changes in Auction Period.**

(1) During any Auction Rate Mode, the City may from time to time on any Interest Payment Date, change the length of the Auction Period with respect to all of the Bonds of any subseries among daily, seven-days, 28-days, 35-days, three months, six months and a Special Auction Period in order to accommodate economic and financial factors that may affect or be relevant to the length of the Auction Period and the interest rate borne by Bonds of such subseries. The City shall initiate the change in the length of the Auction Period by giving written notice to the Credit facility Provider, the Auction Agent, the Broker-Dealers and the Securities Depository that the Auction Period shall change if the conditions described herein are satisfied and the proposed effective date of the change, at least 10 Business Days prior to the Auction Date for such Auction Period;



provided, however, that in the case of a change from a Special Auction Period of 92 or more days, the date of such change shall be the Interest Payment Date immediately following the last day of such Special Auction Period.

(2) Any such changed Auction Period shall be for a period of one day, seven-days, 28-days, 35-days, three months, six months or a Special Auction Period and shall be for all of the Bonds of a subseries in an Auction Rate Mode.

(3) The change in the length of the Auction Period for Bonds of any subseries shall not be allowed unless Sufficient Clearing Bids existed at both the Auction before the date on which the notice of the proposed change was given as provided in this subpart (a) and the Auction immediately preceding the proposed change.

(4) The change in length of the Auction Period for Bonds of any subseries shall take effect only if (A) the Paying Agent/Registrar and the Auction Agent receive, by 11:00 a.m. on the Business Day before the Auction Date for the first such Auction Period, a certificate from the City consenting to the change in the length of the Auction Period specified in such certificate and (B) Sufficient Clearing Bids exist at the Auction on the Auction Date for such first Auction Period. For purposes of the Auction for such first Auction Period only, each Existing Owner shall be deemed to have submitted Sell Orders with respect to all of its Bonds of a subseries for which there is to be a change in the length of the Auction Period except to the extent such Existing Owner submits an Order with respect to such Bonds. If the condition referred to in (A) above is not met, the Auction Rate for the next Auction Period shall be determined pursuant to the Auction Procedures and the Auction Period shall be the Auction Period determined without reference to the proposed change. If the condition referred to in (A) is met but the condition referred to in (B) above is not met, the Auction Rate for the next Auction Period shall be the Maximum Auction Rate and the Auction Period shall be a seven-day Auction Period.

(5) On the conversion date for Bonds of a subseries from one Auction Period to another, any Bonds of such subseries which are not the subject of a specific Hold Order or Bid shall be deemed to be subject to a Sell Order.

(b) Changes in Auction Date. During any Auction Rate Mode, the Auction Agent, with the written consent of the City, may specify an earlier Auction Date for Bonds of any subseries (but in no event more than five Business Days earlier) than the Auction Date that would otherwise be determined in accordance with the definition of "Auction Date" in order to conform with then current market practice with respect to similar securities or to accommodate economic and financial factors that may affect or be relevant to the day of the week constituting an Auction Date and the interest rate borne on such Bonds. The Auction Agent shall provide notice of its determination to specify an earlier Auction Date for an Auction Period by means of a written notice delivered at least 45 days prior to the proposed changed Auction Date to the Paying Agent/Registrar, the City, the Credit Facility Provider, the Broker-Dealers and the Securities Depository.

## **ARTICLE III**

### **AUCTION AGENT**

#### **Part 3.1     Auction Agent.**

(a) The Auction Agent shall be appointed by the Paying Agent/Registrar at the written direction of the City, to perform the functions specified herein. The Auction Agent shall designate its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by an Auction Agreement delivered to the City, the Paying Agent/Registrar and each Broker-Dealer which shall set forth such procedural and other matters relating to the implementation of the Auction Procedures as shall be satisfactory to the City and the Paying Agent/Registrar.

(b) Subject to any applicable governmental restrictions, the Auction Agent may be or become the owner of or trade in Bonds with the same rights as if such entity were not the Auction Agent.

#### **Part 3.2     Qualifications of Auction Agent; Resignation; Removal.**

The Auction Agent shall be (a) a bank or trust company organized under the laws of the United States or any state or territory thereof having a combined capital stock, surplus and undivided profits of at least \$30,000,000, or (b) a member of National Association of Securities Dealers having a capitalization of at least \$30,000,000 and, in either case, authorized by law to perform all the duties imposed upon it by the Ordinance and a member of or a participant in, the

Securities Depository. The Auction Agent may at any time resign and be discharged of the duties and obligations created by the Ordinance by giving at least ninety (90) days notice to the City, the Credit Facility Provider, each Broker-Dealer and the Paying Agent/Registrar. The Auction Agent may be removed at any time by the City by written notice, delivered to the Auction Agent, the City, the Credit Facility Provider, each Broker-Dealer and the Paying Agent/Registrar. Upon any such resignation or removal, the Paying Agent/Registrar shall appoint a successor Auction Agent meeting the requirements of this Part. In the event of the resignation or removal of the Auction Agent, the Auction Agent shall pay over, assign and deliver any moneys and Bonds held by it in such capacity to its successor. The Auction Agent shall continue to perform its duties hereunder until its successor has been appointed by the Paying Agent/Registrar. In the event that the Auction Agent has not been compensated for its services, the Auction Agent may resign by giving thirty (30) days notice to the City and the Paying Agent/Registrar even if a successor Auction Agent has not been appointed.